



November 1, 2018

H.E. Ith Sam Heng
Minister of Labour and Vocational Training
No 3, Russia Federation Blvd.
Sangkat Touek Laak Khan Toulkok
Phnom Penh
Kingdom of Cambodia

Your Excellency:

Thank you for meeting with us and the representatives from brands that are sourcing in Cambodia on October 19. We appreciated the opportunity to engage with you on issues that are having an impact Cambodia's trade and economic development. We appreciated hearing your plans to further develop the apparel sector in Cambodia, and to share potential areas of cooperation that will enhance Cambodia's stature as a preferred sourcing destination.

As a follow-up to our conversation, we are attaching a note with specific suggestions that we believe will have a significant positive impact for workers, suppliers, and buyers. This is not an exhaustive list but rather a starting point for advancing labor rights that Cambodia, and for building on efforts that began over 15 years ago. At the center of these recommendations is our view that workers need the freedom to represent and speak for themselves without fear of retaliation or retribution. We hope that this core value will inform whatever reforms your government takes going forward.

As we wrote to you in March—and expressed when we met—we have continuing concerns about the ongoing criminal charges against labor leaders, charges that have now been pending for five years, the negative effects resulting from the Trade Union Law of 2016, many of which are specified in the attached note, and the diminished role and reduced independence of the Arbitration Council which previously had been a very effective dispute resolution mechanism. Each of these recent developments undermine progress towards improving worker rights, but also appear to have contributed to and overall weakening of broader protections of human rights in Cambodia. We urge your government to guarantee respect of human rights and fundamental freedoms and to provide full protection of all human rights defenders in your country. Political freedoms, rule of law, and enforcement of international civil and labor rights are essential for international trade and responsible business.

We appreciated the opportunity to meet with you and to have an open and frank discussion of these issues. We recognize the importance your government places on having a strong and competitive environment which will improve the livelihood of Cambodian workers and the Cambodian economy. As we told you when we met, as you address these important issues, we are eager to continue this dialogue with you. We stand ready to collaborate on the issues that matter most not only to the workers of Cambodia but to the international brands and retailers that are increasingly looking to Cambodia as a major sourcing destination.

We look forward to hearing from you and to cooperating with you in advancing efforts to strengthen the rights of workers in Cambodia.

Sincerely,



Michael Posner
Board Chair
Fair Labor Association



Steve Lamar
Executive Vice President
American Apparel & Footwear Association



Suggested Labor Reforms for Cambodia

November 1, 2018

Arbitration Council

- As permitted in Cambodia's Labor Law, allow direct access to the Arbitration Council (AC) when the parties agree.
- Maintain a time-bound dispute resolution process.
- Ensure the long-term sustainability and independence of the AC through contributions from all stakeholders. Any perception that the institution relies entirely on just one of the tripartite partners will erode the credibility of the institution.
- Ensure that all cases left unresolved after forwarding to the Ministry of Labor and Vocational Training Department of Dispute Resolution are forwarded to the AC, including disputes the MOLVT disqualifies from mediation. The AC should evaluate and decide which disputes qualify for arbitration.

Trade Union Law

- Make the union registration system more transparent by publishing complete and current statistics on union registrations, with publicly available statistics on the number of applications submitted, accepted, rejected, etc.
- Organize a national consultation process to review and simplify the union registration procedures to make the process more transparent and effective, and to guarantee the rights and freedoms of professional organizations in Cambodia. The current system resembles one of pre-authorization rather than registration.
- Unions should be able to write their own by-laws without interference.
- Develop straightforward and simple forms for applying for MRS to ensure that the MRS application process is efficient and transparent and can be approved without undue delay.
- Allow confederation and federation leaders to take a greater role in representing local unions in paperwork, registration, negotiation, and dispute resolution.
- Remove legal restrictions and lengthy procedures that make it nearly impossible to carry out a legal strike. Allow trade unions to freely conduct legitimate industrial actions by removing Article 13 of the Trade Union Law.

Minimum wage law

- Remove all restrictions on research into the minimum wage, including the mandatory submission of research methodology and results to the Ministry of Labor.
- Allow for full freedom of expression regarding the minimum wage, including the discussion of independent research in the negotiations of the Minimum Wage Council.

International standards

- Consult with all relevant stakeholders, including independent unions, to develop government actions that implement the recommendations in the ILO Committee on Application of Standards (CAS) report and the ILO Direct Contacts Mission report.
- Adhere closely to commitments to the rule of law and the rights of workers, including those affirmed in ILO Convention No. 87 on Freedom of Association and ILO Convention No. 98 on Collective Bargaining.

Prompt resolution of legal cases: Drop charges against all labor leaders accused of crimes in 2014. Also, dismiss all civil and criminal cases and any other long-standing pending charges against labor leaders who were charged while carrying out their basic industrial relations-related functions, including strikes.

Create space for civil society

- Amend the Law on Associations and NGOs (LANGO) by, for example, removing onerous and intrusive reporting requirements.
- Stop using other methods that intimidate civil society groups, such as police visits to their office, intimidation of staff and family members, as well as the lodging of criminal charges that are never resolved in a timely manner.

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