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**REPORT ON VERIFICATION OF REMEDIATION  
AT THE E-GARMENT FACTORY  
(CAMBODIA)**

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**INTRODUCTION**

This report provides an independent assessment of the status of the implementation of the remediation plan at the E-Garment factory in Cambodia. The key element of the remediation plan was the implementation of an agreement signed by E-Garment management and the C.CAWDU union on 26 March 2013, witnessed by the Fair Labor Association (FLA) and the Hong-Kong based Yee Tung Garment Company, owner of the E-Garment Factory. The main purpose of the verification was to gauge the degree of compliance on the part of E-Garment management with the action plan set forth in the April 2013 agreement and progress made in promoting a “mature system of industrial relations” in the factory.

The verification took place in late October and early November 2014 and involved reviewing and analyzing relevant documents; and interviewing factory management (the E-Garment Human Resources Manager), C.CAWDU top leaders at the federation and factory levels, 15 workers affected by the agreement, including those who had returned and not returned to work, the factory-based VKYFTU’s president, and local coordinators of two labor NGOs, the Worker Rights Consortium (WRC) and the Cambodian Labor and Education Center (CLEC).

The key elements key action plans contained in the March 2013 agreement were:

- A. Implementation of specific provisions of the March 2013 Agreement between the trade union C.CAWDU and E Garment management addressing reinstatement and back pay of dismissed workers (and workers on strike);
- B. Development of methodology and financing mechanism for monitoring and coaching program to support C.CAWDU in all issues related to social dialogue;
- C. Negotiation with C.CAWDU and VKYFTU of the composition, governance structure, and terms of reference for the Social Dialogue Committee.
- D. Development of a financing mechanism for funding the establishment and functioning of the Social Dialogue Committee.

The key statement in the agreement concerning the development of the industrial relation system is the promotion of “*a ‘mature system of industrial relations’ aimed at making E Garment viable, profitable and internationally competitive based on the principles of Decent Work and grounded in respect for Cambodian Labour Law and International Labour Standards.*” Action items B, C and D together serve specifically this industrial relation purpose.

## VERIFICATION FINDINGS

### 1. Reinstatement and Back Pay of Dismissed Workers (and Workers on Strike)

**Process:** After the conclusion of the agreement, the factory and C.CAWDU discussed and agreed on the detailed procedures for the reinstatement and compensation of workers. Factory management agreed to reinstate any workers within the three categories in the agreement and with the recommendation made by C.CAWDU -- before the actual reinstatements occurred -- that all compensation be made to workers through C.CAWDU. The factory then transferred all the funds allocated to pay workers entitled to back pay as committed in the agreement. C.CAWDU has confirmed receiving the funds on time and in full. WRC and CLEC coordinators also have the same understanding, namely that all payments were made by the factory to C.CAWDU. The factory stated that this payment arrangement was agreed by all parties during the agreement's negotiation. Labour NGOs (WRC, CLEC and the Solidarity Center) also closely monitored and coordinated the payment from C.CAWDU to the affected workers.

**Results:** Most of the workers, except the first group of workers, returned to work in the factory in May and June 2013 and received their entitled back wages. At the time of the verification, all of the 156 workers (the third group) had been reinstated and each of them had received their full back pay. All 8 of the workers in the second group have also returned to work. All workers in the second group (8 workers) received their back pay in full. For the first group of workers, only 7 of the 33 workers returned to work and received their full back pay; many of the remaining workers (over 20 workers), although they have chosen not to return to work, have received at least a big part of their entitled back pay. C.CAWDU could not locate 4 to 5 workers in the first group and held and reserved the back pay for them. These workers were dismissed in 2008 and, according to C.CAWDU, it was difficult to find them given the passage of time. C.CAWDU, workers and employers found the reinstatement process to be mostly smooth, although C.CAWDU reported difficulties in some areas. During the course of reinstatement, C.CAWDU had to intervene and negotiate with the factory a few times to bring back some of the workers, especially in the second group workers, as the factory did not want to reinstate them quickly enough. It should be noted that some of the workers in group 1 have filed a court case against the top union leaders, accusing them of not paying them the back pay or not paying the back pay fully. The court has not ruled on the case yet. The verifier could not obtain the proof of payments C.CWADU has made to the workers who have taken their case to the court, although the union leaders have promised to make them available.

**Assessment:** The verifier is of the view that Point A of the Action Plan, *addressing reinstatement and back pay of dismissed workers (and workers on strike)*, has been largely completed, as most of the workers have been reinstated (or agreed to be reinstated by factory management if the workers wished to return to work) and paid their entitled compensation by the factory. The verifier is convinced that the factory management has made good faith efforts to comply with this core provision of the agreement. The reinstatement process went well, although there was some difficulty in the reinstatement of some workers, particularly those in the second group. The payment for back pay for the affected workers should not have been made through C.CAWDU, although the names of the workers entitled to the payment should have been recommended and approved by C.CAWDU, as was done. The verifier notes that this practice is different from the way it has been done in a number of other factories in the country, where factory management paid workers directly.

## **2. Industrial Relations System Development**

Up until the time of the verification, there had not been any action or discussion between C.CAWDU and factory management regarding the implementation of the other three points of the Action Plan, namely items B, C and D. Neither factory management nor C.CAWDU recognize their responsibility to implement these elements of the Plan. Nor did they see them as having high priority. It was clear to the verifier that both parties focused their efforts entirely on implementing Action Plan item A, largely ignoring the remaining points. None of the parties have taken any initiative to review the progress of the Action Plan overall. Factory management argued that their existing practices (active communication between unions and factory management) have been sufficient and responsive to addressing emerging issues. C.CAWDU had a similar view, namely that at this time they could approach and negotiate with the factory management on issues they wish to address. The parties were found lacking understanding of the three pending items of the Action Plan and when the verifier explained the points to them and asked them for the reasons for not completing them, the parties stated that they felt that they were unnecessary or difficult to do.

Even though the specific action items have not been implemented, and as a result the industrial relations mechanism, financing, training program, policies and procedures are not in place, the industrial relations situation at the factory are better today compared to the time prior to the agreement. First, there has not been any strike or dispute between C.CAWDU and factory management or between the two rival unions unlike in the past, when the two unions and the factory were involved in disputes that involved strikes, legal complaints before administrative authorities and courts, and physical altercations. Second, the two unions and management appear to have refrained from resuming their history of disputes. They have learned from their past bad experiences and have made commitments to resort to dialogue to address issues that concern them. The two union leaders at the factory and factory management have been attentive to not

interfere with each other and not showing their mutual dislike. The unions did not express to the verifier any serious concerns or demands against factory management. Meanwhile, factory management expressed that they had some complaints about a few of the reinstated workers from group 2, but they addressed the issues in a peaceful manner, in accordance with set rules and law, and in consultation with the unions.

## **CONCLUSION**

The verifier is of the view that Point A of the Action Plan, *addressing reinstatement and back pay of dismissed workers (and workers on strike)*, has been largely completed, as most of the workers have been reinstated (or agreed to be reinstated by factory management if the workers wished to return to work) and paid their entitled compensation by the factory. The verifier is convinced that the factory management has made good faith efforts to comply with this core provision of the agreement.

The verifier found that industrial relations at the factory were much improved from a prior visit in March 2013. He attributes the better industrial relations climate at the factory to the implementation of the March 2013 agreement between factory management and the C.CAWDU union. The process has made C.CAWDU and management work together under the terms of the agreement. The other union – the VKYFTU -- has respected the agreement and the role of the parties to the agreement.

The verifier however found that implementing the remaining items in the Action Plan would be worthwhile, as the existing practices do not guarantee the same environment in the long run. Implementation of the remaining Action Items will help improve further and sustain the improved industrial relations system and environment, benefitting the parties and all workers at E-Garment in the long term. To the verifier, implementation of these items of the remediation plan would be within the parties' ability and capacity to implement, although it will require FLA, Yee Tung and the labor NGOs to push and facilitate the process.