



January 22, 2020

Samdech Akka Moha Sena Padei Techo Hun Sen  
Prime Minister  
Royal Government of Cambodia  
Kingdom of Cambodia

Dear Samdech Prime Minister:

We represent organizations and companies that have an interest in Cambodia. Our work with suppliers in Cambodia contributed to the USD \$9.5 billion in garment, footwear, and travel goods exported from Cambodia last year. Many of the companies signing this letter have been sourcing from Cambodia since the garment sector was established in Cambodia in the mid-1990s. In May 2019, a group of companies [wrote to you](#) regarding the concerns we had regarding the labor situation in Cambodia. That letter was preceded by a delegation of brands meeting with Cambodian government officials in October 2018 and a subsequent [November 2018 letter](#) with similar concerns. Since that time, the Government of Cambodia has rescinded some of the criminal charges against union leaders, has restored some of the unions' ability to access the Arbitration Council, and has proposed amendments to the Trade Union Law.

Despite this progress, many of the issues raised in the letter remain valid. As such we urge the Cambodian government to immediately address four key issues:

1. *Amend the Trade Union Law (TUL).* The amendments promulgated on January 3, 2020, fall short of international labor rights standards, fail to eliminate arbitrary hurdles to union registration, and restrict the ability of all unions to fully represent their members. Please see the *Attachment* for recommended changes.
2. *Repeal the Law of Associations and NGOs.* The current law enables an atmosphere of harassment and repression against civil society organizations and unions.
3. *Drop all outstanding criminal charges against union leaders.* The Cambodian government should cease further baseless judicial proceedings against labor activists.
4. *Respect and foster the important role of the Arbitration Council.* In addition, the Cambodian government should respect the ability of all unions to represent their workers before the Arbitration Council.

The credibility of Cambodia's apparel, footwear, and travel goods sectors are at stake. We urge the government of Cambodia to publicly present a roadmap, together with an inclusive tripartite national mechanism, that sets out, and implements, specific, concrete, and time-bound steps to bring Cambodia in line with international standards on the above issues.

We are concerned that the labor and human rights situation in Cambodia is risking the loss of trade preferences for Cambodia. The European Union is reviewing Cambodia's Everything but Arms (EBA) benefits. Members in the U.S. Congress have introduced bills that would require the U.S. Government to review Cambodia's Generalized System of Preferences (GSP) benefits based on the declining respect for labor standards, including freedom of association, and other issues related to respect for human rights issues in Cambodia.

We look forward to hearing back from you and working with you to ensure a bright future for Cambodia's workers and the Cambodian economy overall.

Sincerely,

adidas

American Apparel & Footwear Association

Burton

CNV Internationaal

Esprit

Fair Labor Association

Fair Wear Foundation

Fruit of the Loom

IRBC Agreements/Agreement on Sustainable Garments and Textile

Kik

Levi Strauss

lululemon

MEC

Mondiaal FNV

Montane

New Balance

PVH

Puma

Ralph Lauren

Salewa

Schoffel

Under Armour

VF Corporation

## Attachment

### Suggested Amendments to the Trade Union Law

We ask that you incorporate the recommendations made by the International Labour Organization's Committees of Experts on the Application of Conventions and Recommendations and on Freedom of Association regarding amendments to the Trade Union Law (TUL), specifically with regards to articles 3, 10, 12, 13, 20, 21, 28, 38, 59 and fines under Chapter 15.

In addition, we have the following comments on specific articles of the TUL:

**Article 3** (amended): The amended Article 3 does not extend application of the TUL to "all persons," as previously recommended by the Office of the United Nations High Commissioner for Human Rights (OHCHR). Article 3 of the TUL states the law applies to "*all persons who fall within the provisions of the labour law.*" This undermines article 36 of Cambodia's Constitution which guarantees that "*Khmer citizens of either sex shall have the right to form and to be members of trade unions.*"

**Article 5** (not amended): The article states that all workers and employers have the right to form a union of their choice "for the exclusive purpose" of study, research, training, promotion of interests, and protection of the rights of persons covered by the union. We urge you to adopt the recommendation proffered by the UN Office of High Commissioner on Human Rights (OHCHR) and remove the phrase "*for the exclusive purpose of*" in order to allow the registered organization to freely decide on their activities and programs.

**Article 12** (not amended): The article states that an application for registration of a union shall be approved "*if it adequately meets all requirements*" including copies of union statutes, regulations that govern leadership, names of leaders, copies of financial books, bank accounts, and official minutes of elections. Article 12 grants a high degree of discretion to the government and sets out considerably burdensome registration requirements for unions. Article 12 should be amended to streamline the union registration process and make the process of review and approval transparent.

In general, Cambodia's union registration procedures and union statute requirements, both in the TUL and in practice, conflict with international standards by requiring previous authorization by the authorities (violating article 2 of ILO Convention No. 87) and infringing on unions' rights in drawing up their own constitutions and rules (violating article 3 of ILO Convention No. 87). In addition, determination of the union with most representative status is subject to approval and recognition by the authorities when this discretion should lie with an independent body. The amendments to the TUL do not create a transparent, effective and simple registration process that will guarantee freedom of association for all workers as well as address the backlog of pending union registration applications.

**Article 54** (amended): The amendment does not conform with international standards because it does not provide the right to collective bargaining and collective dispute resolution to all unions, regardless of their "most representative status." Currently unions that do not have most representative status are prevented from defending the interests of their members. The article should be further amended to respect the ability of unions (both MRS and non-MRS) to represent their workers before the Arbitration Council.

**Article 17** (amended): The amended article infringes on unions' rights to determine their internal affairs. The amendment added an additional independent auditing mechanism if 10 percent of union members or

5 percent of union donors call for it. The auditing mechanism requires the institution be legally registered in Cambodia, which may eliminate the use of reputable independent auditors who are licensed overseas. The amendment has not reduced or simplified the required documentation that unions must annually submit to the Ministry of Labor and Vocational Training (MoLVT). When article 17 is read in conjunction with the unchanged article 18, it is clear the law empowers the MoLVT to revoke union registration if the union has not fulfilled obligations stipulated by regulators in two warning notifications.

**Articles 20, 21 and 38** continue to infringe on the right of unions to freely elect their representatives.

**Article 18** (not amended): This article empowers the MoLVT to file a lawsuit in the labor court to revoke the registration of a union if it has not fulfilled its obligations outlined under the current TUL. Considering the cumbersome administrative and documentary demands imposed by the law, and regulator's arbitrary powers to determine whether those requirements have been met, unions risk dissolution based on arbitrary grounds and unreasonable requests.

Fixed-term contracts: The TUL does not include any provisions to increase protection for workers employed on fixed duration contracts to exercise their right to freedom of association. The TUL should be amended to provide greater protection against retaliation for workers under fixed-term contracts who wish to unionize.