

Memorandum of Understanding
On Improving Industrial Relations in the Garment Industry
Sunway Hotel, Phnom Penh
28 September 2010

In the interest of promoting harmonious industrial relations in Cambodia, we, the undersigned parties representing workers and employers in the garment industry, have committed today to improve industrial relations in the garment industry. This solemn agreement, referred to as the MoU, has been reached freely and in good faith, and commits the parties to respect and adhere to certain key principles, and to follow up these principles with a number of concrete steps and actions.

This MoU covers, on the side of employers, current and future members of the Garment Manufacturers Association in Cambodia. It covers, on the side of the unions, the confederations and federations that have signed this MoU, and their current and future affiliates at the federation and enterprise level.

The undersigned shall promote and encourage the spirit of this MoU to all employers and workers who are not signatory to this MoU.

Parties agree to treat this MoU as a whole package; each article cannot be read or referred to individually. The monitoring mechanism agreed herein shall review adherence to this MoU as a whole. If either party finds, through the monitoring mechanism described herein, that violations of the MoU by either party make it impossible to implement, then the parties may choose to declare the MoU null and void. However, the parties agree not to declare the MoU null and void for at least one year following the signature of the MoU.

This text specifies these principles and commitments.

- 1) Parties agree to adhere to national law
- 2) Both parties support CBA in order to achieve certainty and predictability, and to protect rights and terms and conditions of work for both parties.
- 3) Both parties support the MRS as the exclusive bargaining agent on behalf of all workers in the enterprise. Minority unions can participate in the process by choice but along with all employees must respect the authority of the MRS union, and have no right to initiate or disrupt bargaining or to object to any CBA reached by MRS union
- 4) A CBA negotiated by MRS union applies to all employees in the enterprise and no strike or lockout should be permitted by any group during the term of the CBA. No further claims shall be lodged by either party during the term of the agreement. 

- 5) Any dispute that arises during the term of the CBA will be settled in accordance with a shortened dispute procedure with binding arbitration on rights disputes. No strike shall take place over disputes of rights.
- 6) In the absence of a CBA, the parties shall agree to use the national dispute procedure and accept, where mediation is unable to resolve the issue, binding arbitration for rights disputes. The parties also agree to follow the dispute resolution procedures and not resort to strike or lockout during the process. Where an arbitration decision on dispute of rights is given, the employer and workers and their representatives accept that the decision is final and binding on them. Where a party fails to honour the agreement, then strike or lockout shall be available as a last resort.

IMPLEMENTATION: Union confederations and federations, and GMAC and its members factories agree to undertake the following steps to implement this MoU in good faith:

1) Media and Publicity

- To issue a joint press release upon signing the MoU, in Khmer, Chinese and English, and distribute it to relevant national and international media*
- Post the MoU and press release on GMAC and union websites*
- With the consent of the parties, ILO may also take measures to inform the public through newsletters, websites, newspapers etc.*

2) Inform unions and employers

- Unions shall send a copy of the signed MoU to each union federation and enterprise union; GMAC shall send a copy of the signed MoU to the General Manager and senior manager responsible for HR at each member factory*
- With ILO assistance, develop brochure or other promotional and educational material that both GMAC and union confederations and federations can send to members*
- Post the agreement and/or signed model MoU in a public space within the factory*
- Encourage workers and employers at the enterprise level to discuss, reproduce and sign this MoU at the enterprise level*

3) Inform Royal Government of Cambodia

- On behalf of all parties, ILO shall send a copy of the MoU to Ministry of Labour and Vocational Training at central and provincial level; Ministry of Commerce; Ministry of Social Affairs, Veterans and Youth Rehabilitation; and other government authorities as appropriate.*
- On behalf of all parties, ILO shall take measures to ensure that relevant MOLVT officials concerned with dispute resolution and labour inspection are aware of and understand the content of the MoU.*
- With the consent of the parties, ILO may also take measures to ensure that MOLVT and other government agencies are aware of this MoU.*

4) Inform Arbitration Council

- On behalf of all parties, ILO shall send a copy of the signed MoU to the Arbitration Council and request the Secretariat of the Arbitration Council to ensure that parties covered by the MoU are aware of its contents

The above applies to Points 1 through 6 of the agreement.

7) The parties agree to carry out fact-based joint research on the prevalence and nature of short term employment contracts in the garment industry. On the basis of this research, the parties agree examine limiting the use of fixed duration contracts to legitimate reasons such as business cycle, seasonality, and related reasons.

IMPLEMENTATION: ILO shall draft TORs for this research, which shall be reviewed and agreed by unions and GMAC. The research shall be completed no later than 2 months after the agreement on the TORs, and a report shall be sent to unions and GMAC no later than one month after the research is completed. The parties agree to meet within one month after receiving the report to discuss its findings and to determine further policy measures, if any.

8) The parties agree to start a national policy dialogue on productivity.

IMPLEMENTATION: Employers and unions undersigned, in collaboration with relevant government agencies, training institutions and national and international organizations, commit to seek opportunities for, and to engage in good faith in, a national dialogue to improve productivity

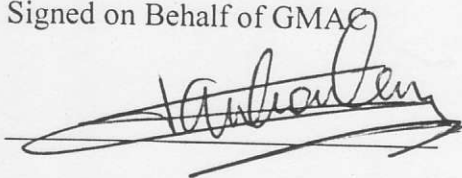
9) The parties agree to discuss the selection process of arbitrators in order to ensure confidence in the Arbitration Council by all parties.

IMPLEMENTATION: Under the auspices of the World Bank's Demand for Good Governance program, which provides funding for the AC, a tripartite advisory committee has been established. This committee may wish to discuss the process of selecting arbitrators.

MONITORING MECHANISM: The parties agree to meet 4 times per year to review and monitor implementation of this MoU. The parties shall, in good faith, attempt to resolve any differences that may come up during the life of this MoU.

Timeframe: This agreement comes into affect on 1 January 2011. The right to terminate this agreement as described herein shall come into effect after 1 October 2011.

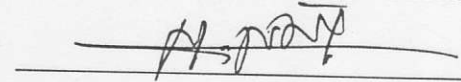
Signed on Behalf of GMAC



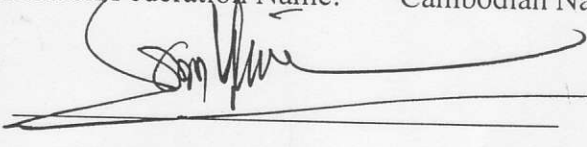
Date: 28 September 2010

Mr. VAN Sou Ieng, Chairman

Signed on behalf of Union Confederations, Federations and affiliated enterprise unions

1.  Print Name: MORM NHI

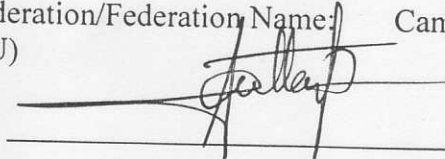
Confederation/Federation Name: Cambodian National Confederation (CNC)

2.  Print Name: Soem Ann

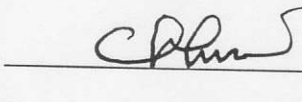
Confederation/Federation Name: National Union Alliance Chamber of Cambodia (NACC)

3.  Print Name: Vong Sovann

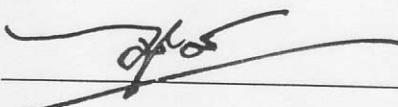
Confederation/Federation Name: Cambodian Confederation of Trade Unions (CCTU)

4.  Print Name: Ath Thorn

Confederation/Federation Name: Cambodian Labour Confederation (CLC)

5.  Print Name: Rang Chhan

Confederation/Federation Name: Cambodian Confederation of Unions (CCU)

6.  Print Name: HANG Soriya

Confederation/Federation Name: Khmer Youth Federation of Trade Unions (KYFTU)