



March 19, 2018

Samdech Akka Moha Sena Padei Techo HUN SEN
Prime Minister
Royal Government of Cambodia
Kingdom of Cambodia

Dear Samdech Prime Minister

On behalf of international garment, footwear, and travel goods brands and retailers, we write to urge your government to immediately implement its October 16, 2017 commitments and make other key changes on labor law reform. Further, we write to express our growing concern over recent developments that not only seem to undermine progress towards improving worker rights, but also appear to have created an environment that has weakened protection of human rights. As such, we also 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.

Our organizations – **American Apparel and Footwear Association (AAFA)**, **amfori – Trade with Purpose**, **Ethical Trading Initiative (ETI)**, **Fair Labor Association (FLA)**, **Fair Wear Foundation (FWF)** and **Social Accountability International (SAI)** - represent U.S., European, and other major international brands and retailers, including more than 200 buyers who source Cambodian garments, footwear, and travel goods (backpacks, handbags, luggage).

Thanks to your government's strong leadership and foresight, you have transformed a mere \$27 million garment industry in 1995 into a \$6.3 billion industry employing over 650,000 workers. Part of the reason behind this success is that you saw the value of developing a world-class workforce and therefore embraced initiatives to improve working conditions for those 650,000 workers.

As a result, buyers from the United States, Europe, and across the world – our members – purchase billions of dollars of products from Cambodia, and not only garments. This strong interest has led to the development of Cambodia's vibrant and fast-growing footwear and travel goods industries. In fact, AAFA spearheaded the effort to provide Cambodian travel goods with duty-free access under the U.S. Generalized System of Preferences (GSP) program. AAFA is now pushing to add certain footwear to the GSP program and is lobbying the U.S. Congress to renew the GSP program as soon as possible.

Your government spearheaded the implementation of the International Labor Organization's (ILO) Better Factories program, which has become an example for the rest of the world. Further, the Arbitration Council, established by your government, has played a critical role in resolving difficult collective disputes, with both workers and employers utilizing and trusting this institution - a rare combination. Finally, your government's establishment of the Labor Advisory Council has provided a foundation for transparency and stakeholder participation, and introduced certainty to the annual minimum wage review.

Defined minimum wage and its regular review via an inclusive consultative process is not a threat to Cambodia's competitiveness. In fact, the opposite is true: restrictions on minimum wage discussions and lack of freedom of association will make Cambodia an unattractive and expensive place to do business because of increased reputational risks for brands sourcing from Cambodia, regular social unrest at workplaces (which is a great extra cost to brands) and potential trade tariffs (if the situation does not improve).

We applaud the 16 October 2017 announcement¹ by your Ministry of Labor that your government would address many of the concerns raised by our organizations, international buyers, and others with regard to the draft minimum wage law, the draft dispute settlement law, and the current trade union law.

However, five months have passed with little progress in your government fulfilling those commitments.

Therefore, we urge your government to:

1. Quickly, and fully, implement the commitments made in the 16 October 2017 announcement:
 - a. Revocation of the draft Law on Labor Dispute Adjudication Procedures, as requested by the tripartite consultative workshop and parties concerned, by continuing to utilize the existing labor dispute conciliation and resolution mechanism;
 - b. Revision of Article 16 of the draft Law on Minimum Wage to allow for independent research on minimum wage and open it up for further tripartite discussion; and
 - c. Allow minority unions to represent members in collective labor disputes by removing Article 54 of the New Trade Union Law;
 - d. Organize national workshops to review and adjust the union registration procedure to make it more transparent and effective and to guarantee the rights and freedoms of professional organizations in Cambodia; and
 - e. Promote cooperation with international organizations and other partners especially the ILO Better Factories Cambodia (ILO-BFC), the Global Deal Initiative of Sweden and the GIZ project for improvement and strengthening of the industrial relations in factories and enterprises. Stability of industrial relations guarantees timely supply and ensures the reputation of Cambodian textile and footwear product, which is a clean-source product and in full compliance with international labor standards.
2. Work with all stakeholders to further strengthen the Arbitration Council (AC) by:
 - a. Restoring access to dispute resolution by the AC, by directing the Ministry of Labor to resume referring cases brought by all unions to the AC;
 - b. Making the dispute resolution process easily accessible to management and workers, leading to speedy resolution of issues;
 - c. Ensuring workers are protected from any reprisal or prejudicial action and have easy access to conciliation and arbitration for any unresolved grievances;
 - d. Allowing trade unions to freely conduct legitimate industrial actions, particularly if a dispute is long-running, by removing Article 13 of the Trade Union Law;
 - e. Moving towards making all AC decisions binding; and
 - f. Ensuring the long-term sustainability of the AC through contributions from all stakeholders.

¹ [Minister of Labor Announcement](#) on Meeting with ETI and Brands, 16 October 2017.

3. Further improve the draft Minimum Wage Law by allowing for full freedom of expression regarding the minimum wage; and
4. Enable a process of registering the most representative union for the purpose of collective bargaining while continuing the consultation on the prakas with all stakeholders to align it with international standards;

In these recommendations, our member brands stand ready to work with your government to improve workers' rights and livelihoods, as we have through the BFC Buyers Forum, the BFC and SC-supported Garment and Footwear Road Safety Strategy, the PACE program, the BSR HER Project, and other initiatives.

Further, since that announcement, we have watched with increasing concern actions that appear to undermine human rights and freedom of association. Those actions include:

1. The criminal charges against Tola Moeun, But Buntenh, and Pa Nguon Teang;
2. The criminal charges brought against 6 prominent union leaders during the 4 January 2014 government crackdown, following workers' protests for higher wages (i.e. the Veng Sreng case), namely Ath Thorn of the Coalition of Cambodian Apparel Workers' Democratic Unions (C.CAWDU); Mom Nimh of the National Independent Federation Trade Unions of Cambodia (NIFTUC); Yang Sophorn of the Cambodian Alliance of Trade Unions (CATU); Chea Mony of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC); Pav Sina of the Collective Union of Movement of Workers (CUMW); and Rong Chhun of the Cambodian Confederation of Unions (CCU); and
3. The criminal charges against 12 independent union leaders in the February 2016 Capital Bus case, most prominently Ath Thorn (President CLC and C.CAWDU), Kong Athit (Vice President, CLC and C.CAWDU), Ean Kim Hun (General Secretary of the Cambodian Transport Workers Federation (CTWF), Nin Kosal (Deputy Secretary of CTWF), and Sok Chhun Oeung (President of the Cambodian Informal Worker Association).

We agree with UN Special rapporteur that *"Restricting Cambodians' voices could ultimately threaten the stability that the Government and the people had worked hard to build...²"*. Therefore, we urge the government to:

1. Guarantee in all circumstances the physical and psychological integrity of arrested human rights defenders in Cambodia;
2. Put an end to all forms of harassment, including at the judicial level, against above mentioned and all human rights defenders in the country so that they are able to carry out their work without hindrance;
3. Comply with all the provisions of the United Nations Declaration on Human Rights Defenders, adopted by the UN General Assembly on December 9, 1998, particularly Articles 1 and 12.2; and
4. Guarantee the respect of human rights and fundamental freedoms in accordance with the Universal Declaration on Human Rights and other international human rights accords signed or ratified by Cambodia.

Mr. Prime Minister, our members – Cambodia's buyers – have valued a long and mutually beneficial relationship with your country. As a result of this relationship, and the efforts of your government, your

2

<http://cambodia.ohchr.org/sites/default/files/UN%20Special%20Rapporteur%20calls%20for%20restoration%20of%20democracy%20and%20vibrant%20civil%20society.pdf>

country has flourished into one of the leading suppliers of garments, and one of the fastest-growing suppliers of footwear and travel goods to the world.

We remain concerned, therefore, that lack of action to quickly resolve these issues, which are critical to our members as well as to Cambodian people, could jeopardize this tremendous success story. As such, we look forward to working with your government towards resolving these issues so that Cambodia's industry, and your country, continues to grow and prosper well into the future.

Sincerely,

Rick Helfenbein, President and CEO
American Apparel & Footwear Association

Christian Ewert, Director General
amfori – Trade with Purpose

Peter McAllister, Executive Director
Ethical Trading Initiative

Sharon Waxman, President and CEO
Fair Labor Association

Alexander Kohnstamm, Director
Fair Wear Foundation

Jane Hwang, President and CEO
Social Accountability International

Cc:

cc HE Ith Sam Heng, Minister of Labour and Vocational Training

cc HE Pan Sorasak, Minister of Commerce

cc HE Ang Vong Vathana, Minister of Justice

cc HE Aun Porn Moniroth, Minister of Economy and Finance

cc HE Prak Sokhon, Minister of Foreign Affairs and International Cooperation

cc H.E. Dr. Soeung Rathchavy, Ambassador Extraordinary and Plenipotentiary, Royal Embassy of Cambodia