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**CAMBODIAN FEDERATION OF EMPLOYERS AND BUSINESS ASSOCIATIONS**

2015

# Cambodia's Trade Union Law. A necessity. Employers' position paper

**A NECESSITY FOR INDUSTRIAL PEACE AND ECONOMIC  
GROWTH, SUSTAINABILITY AND DIVERSIFICATION.**

This policy paper was written by Sandra D'Amico, Vice President of CAMFEBA and Chhum Veasna, Economic Consultant and brings together the views and perspectives of industry and employers on the development and implementation of Cambodia's Trade Union Law. The data presented in the policy paper are the most recent at the time of publishing. Professional advisory services and further consultation should be sought should data and information presented, be used for decision making purposes. Contact [camfeba@camfeba.com](mailto:camfeba@camfeba.com) for more information.

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## Cambodia's Trade Union Law

### *A necessity for industrial peace and economic growth, quality jobs, sustainability and diversification*

#### Executive Summary

**The "Trade Union Law" is not only a law that governs Trade Unions, but Employer Organisations too.** During the drafting phases, the law was titled "The law on Professional Organisations". The coverage of the law is essential to bring into the discussion of the law, as the law has specific objectives to ensure both a **structured and representative** organisation of trade unions and employers bodies, with an ultimate objective of peaceful and constructive industrial relations

Through the Private Sector Working Group (PSWG) mechanisms in 2007, employers requested the development of a *trade union law specifically, as multiplicity, unrepresentativeness and infighting amongst unions*, was having (and today continues to have) a negative impact on constructive and peaceful industrial relations and productivity of industry. In addition, **illegal and wildcat strikes** continue to increase and remain a deterrent to diversifying the economy and attracting labour intensive industries. The dilapidating consequences of illegal and wild-cat strikes have extended to **slow productivity, slow industrial investment and job growth and general concerns on the stability of the Cambodian business environment**. Other consequences of the Cambodian union movement as it is structured today, is the proliferation of unrepresentative unions or what we call minority unions, who are not genuinely representing their members interest, they disrupt employers (and even unions) **in their attempts to negotiate Collective Bargaining Agreements (CBAs)**. **Multiple minority unions often cannot reach a consensus at a factory floor level and create confusions**. Today there is little respect for CBAs in force and **little accountability** for illegal actions and behaviours resulting in a poor reflection on all, and penalising those who are genuinely representing their constituents and members. **Enforcement of sanctions for illegal behaviours is almost non-existent today**. Disruption of the workplace by **outside minority unions is common including harassment and intimidation of workers and employers**. All these challenges are simply a fact of the construction of the union movement today that needs to be addressed to ensure we have a vibrant, dynamic and flourishing industrial environment.

In response, The Cambodian Prime Minister agreed to the request to develop a law, which not only governs unions and their activities, but employer organisations too. CAMFEBA

greatly welcome this commitment from the highest levels. The first draft was written in 2008 and was put for discussion at numerous Consultative Tripartite Meetings from 2009 to 2011<sup>1</sup>. The latest consultation was held in June 2014 after which final comments could still be submitted in writing. At the final consultation, several outstanding matters remained, **many which were jointly put forward by unions and employers**. These include but are not limited to, the number of workers needed to form a union as well as both employer and union dissatisfaction with penalties which would dissuade investment and have an adverse impact on the trade union movement overall. Both employers and workers had significant opportunity to contribute to the development of the law and to provide inputs as well as receive expert opinions from government, the ILO standards body and their respective members and constituents.

**The approach to drafting the law was inclusive and exhaustive in bringing together social parties.** To say otherwise, is simply untrue and not reflective of the tripartite spirit and dialogue in Cambodia and efforts that all parties invested in coming together to contribute to Cambodia's future.

Cambodia today has over 3000<sup>2</sup> trade unions of which the overwhelming majority, of which more than 90% are active in the garment sector which has around 557<sup>3</sup> exporting garment factories and 58<sup>4</sup> footwear factories. Just over 70 percent of factories have one or more union<sup>5</sup>. The reality on the factory floor is, that a factory can have anywhere from 3 on average to 10 unions.

Despite a **worker friendly labour law, mandatory monitoring of the exporting garment and footwear sector** workplace by the International Labour Organisation (ILO) Better Factories Cambodia (BFC) program for the last 15 years and significant investment in worker and union education, Cambodia's industrial relations environment can be described as a slippery-slope, complex and problematic at a time when reforms are focussed on diversification of the economy and attracting other higher value added labour intensive industries. This too, in the wake of formalising and realising the ASEAN Economic Community (AEC). Industrial relations and social peace, is arguably, Cambodia's greatest challenge in its pursuit to continue along a growth path and transition to a middle-income country.

*"Social peace and stability are Cambodia's most important challenge to address in the coming years."*

*H.E. Sok Chenda. Secretary General of Council for Development of Cambodia (CDC) at the pre-conference meeting for the CDRI<sup>6</sup> Annual Outlook Conference, January 2015*

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<sup>1</sup>

<sup>2</sup> Ministry of Labour and Vocational Training (May 2015)

<sup>3</sup> GMAC 2015 data as at May 2015

<sup>4</sup> GMAC 2015 data as at May 2015

<sup>5</sup> ILO BFC data (ILO, 31th synthesis report on working conditions in Cambodia's garment sector, page 8)

<sup>6</sup> Cambodia Research Development Institute

**Employers want a healthy and representative trade union movement.** The need for a law and ensuring worker rights are effectively represented are essential and reflected in the main objectives of the new law which include **(1)** defend the legitimate rights and interest of all persons who fall within the scope and provisions of the labour law **(2)** to ensure the right to collective bargaining between workers and employers **(3)** to promote harmonious, peaceful and constructive industrial relations and **(4)** to contribute to the development of decent and productive employment.

**Both employers and workers bodies play an equally important role in achieving these goals.** The law also provides an opportunity to “clean-up” and ensure representativeness of employer or worker bodies. From an employer perspective, this will help greatly to **(1)** have a unified union voice representing the genuine interests of workers **(2)** ensure that unions are genuinely representative and engaging in the interests of the workers and **(3)** that a more constructive approach to industrial relations can be taken on a factory floor level with those worker representatives genuinely representing worker interests. *Employers organisations in industry will also embark on a similar process to ensure industry associations are representative and unified.*

What do employers want to achieve from the development and implementation of this new law?

- 1. A representative and unified union movement that contributes** not only to the protection of work rights but also the development of the economy and creation of quality jobs, productivity and skills improvements – at a factory floor, industry and national level.
- 2. A representative union movement that is genuinely working in and for the interests of Cambodian workers.** A need to have Collective Bargaining Agreements that genuinely protect worker and employer interests and industrial peace that are respected and enforced.
- 3. A healthy and proactive industrial relations engagement at the factory floor, industry and national level** in which social partners are being proactive in understanding each other and collectively solving challenges for the betterment of firms and workers alike.
- 4. A predictable economic and investment environment** in which strikes are a last resort, not the only resort. A predictable social environment so that we can attract diversified investment and industries.
- 5. A law that is clearly articulated and enforced** in which all social partners are held accountable for their actions and working proactively on industrial relations harmony
- 6. A service orientated Labour Ministry where enforcement mechanisms hold parties accountable for their actions** and in so doing, promote more proactive bilateral relations between workers and employers.

It is not only the formation and passing of this new law governing workers and employers, but the **implementation and enforcement of the law** that will contribute towards a more constructive industrial relations environments. Employers stand ready to engage in a constructive manner with unions and government in realising the implementation of the law.

**Successful Business, Prosperous Cambodia** is the motto employers stand by. Industrial relations peace, stability and predictability, is at the heart of successful business and as a result, productive jobs and employment opportunities that contribute to a prosperous Cambodia, its people, economy and long term sustainability.

### **Context: A snap shot of the garment sector and trade union movement in Cambodia**

**This paper highlights the critical challenges faced by the garment and footwear sector in industrial relations management and why Cambodia needs a trade union law.**

*The proposal and formation of the new Trade Union law, which governs both worker and employer organisations is a direct result of many inadequacies and challenges around industrial relations management in the garment sector.*

The new Trade Union Law, will set a foundation and vision as described in its objectives to **(1)** improve both worker and employer representation and engagement and **(2)** to better utilise industrial relations tools such as collective bargaining agreements to create a peaceful and predictable economic environment. In addition, the new law will **(3)** promote harmonious, peaceful and constructive industrial relations and **(4)** contribute to the development of decent and productive employment.

**Despite significant assistance to the sector**, whether it be the **mandatory monitoring of exporting garment factories** by the ILO BFC programme or trade union support and capacity building, the challenges faced in the garment sector have **highlighted the need for Cambodia to develop Cambodia-relevant solutions for its growing industrial relations challenges.**

A first step in addressing challenges is our new law, “The Trade Union Law” which will help to get both worker and employer representatives **(1)** structured and organised and **(2)** acting responsibility in the interest of their members and constituents and **(3)** acting responsibility in the interest of their changing industries and economy.

*“The garment sector remains a critical source of jobs for Cambodian people and the economy. We cannot underestimate the importance of keeping and maintaining this industry, which is 90 percent foreign investment and ownership and 10 percent of factories have Cambodian and foreign interests. Industrial peace is essential to diversify and upgrade the garment sector as well as attract new higher value added sectors and jobs to Cambodia”*

*Van Sou Ieng, President of GMAC and CAMFEBA*

**The Cambodian garment & footwear sector in data**

It is essential to understand the importance of the garment and footwear sector in terms of formal employment, economic and export contributions. The sector is more than 90%<sup>7</sup> foreign owned and has played a critical role in sustaining economic growth and generating employment.

**Table 1: Number of exporting factories**

Year	Garment & Textile	Footwear	Total
2011	369	29	398
2012	402	40	442
2013	473	48	521
2014	570	57	627
2015 <sup>8</sup>	557	58	615

Source: Garment Manufacturers Association (May 29, 2015)

**Table 2: Employment numbers**

	Garment & Textile	Footwear Employment	Total Employment
2011	394,432	50,077	444,509
2012	423,685	55,772	479,457
2013	459,231	54,313	513,544
2014	487,382	60,239	547,621
2015 <sup>9</sup>	438,651	82,501	521,152

Source: Garment Manufacturers Association (29 May 2015)

**Table 3: Number of exports**

Year	Data in USD Million		
	Garment & Textile Exports	Footwear Exports	Total Exports
2010	3,008.00	177.17	3,185.17
2011	4,047.05	263.99	4,311.04
2012	4,445.65	311.23	4,756.88
2013	4,966.52	353.62	5,320.14
2014	5,343.24	441.43	5,784.67

Source: Garment Manufacturers Association (May 26, 2015)

**Table 4: Contribution to GDP**

Year	Industry <sup>10</sup>	Agriculture	Services	Total
2011	22.1%	34.6%	37.5%	100%
2012	21.9%	33.9%	37.8%	100%
2013e	24.1%	31.6%	38.5%	100%
2014p	25.3%	29.7%	39.2%	100%
2015p	26.2%	29.0%	39.4%	100%

Source: 2011 & 2012: National Institute of Statistics

2013 – 2015: Ministry of Economy and Finance estimates

<sup>7</sup> GMAC as of May 2015

<sup>8</sup> as of May 2015

<sup>9</sup> as of May 29, 2015

<sup>10</sup> Industry includes garment and footwear sector and Services includes tourism sector

**The Cambodian trade union movement in data**

It is essential for the reader to understand the realities of the trade union movement in Cambodia, in particular because the overwhelming majority, more than 90 percent are active in the garment sector. Industrial relations have suffered greatly since 2012 and requires a critical review of how social partners engage.

**Table 5: Trade union registration since 2011**

Year	Trade Union	Federation	Confederation
2011	2253	62	10
2012	2583	71	11
2013	3004	80	13
2014	3111	83	14
2015 <sup>11</sup>	3166	86	14

Source: Ministry of Labour and Vocational Training (May 2015)

**Table 6: Strike numbers since 2011**

Year	# strikes	% Change Year on Year
2011	34	-24.40%
2012	121	255.90%
2013	147	21.50%
2014 <sup>12</sup>	108	-26.50%

**Number of strikes increased by 74 percent in the first three months of 2015, compared to the same period in 2014**

Source: Garment Manufacturers Association (May 26, 2015)

**Table 7: Lost man days due to strikes**

Year	# Lost man days	% Change Year on Year
2010	202,204	-35.60%
2011	139,513	-31.00%
2012	542,827	289.10%
2013	888,527	63.70%
2014	526,944	-40.60%

Source: Garment Manufacturers Association (May 26, 2015)

<sup>11</sup> as of May 2015

<sup>12</sup> Strikes declined due to restrictions on public demonstrations to maintain law and order after the January 2014 political violence which piggy backed off minimum wage negotiations at the end of 2013.

## Key challenges that need to be addressed

### ***A law that governs the conduct, formation and representativeness of union and employer bodies.***

*Under the 1997 Cambodian Labour Law, there are no provisions regulating the structure and organization and formation of trade unions, federation or confederations. Neither is there a clear structure and organisation for employer and industry bodies<sup>13</sup>.*

The trade union movement today boasts over 3000 unions, the overwhelming majority, more than 90%, of which are active in the garment sector which has 557 exporting garment factories and 58 exporting footwear factories<sup>14</sup>. In addition there are approximately 86 Union Federations and 14 Union Confederations<sup>15</sup>.

Trade union pluralism in Cambodia is derived from the current legal framework which provides no clear guidelines on representativeness, thus creating the biggest challenge the union movement faces: **multiplicity of unions on a factory floor and minority unions disrupting workplaces and interfering in negotiations or simply interfering in workplaces.** Too many individuals have exploited the law and it's freedoms for personal interest.

CAMFEBA discussions with international trade unions also agree that the disorganisation of the trade union movement in Cambodia and multiplicity of trade unions is a dilapidating challenge impacting a constructive industrial relations environment that the needs to addressed.

***"It is very difficult to work with the Cambodian Union Movement as there are too many unions, little cohesion and a lot of personal agenda's that are difficult to balance"***

*International Trade Union delegate response in meeting with CAMFEBA in early 2015 discussing the new law and the Cambodia's challenges in industrial relations.*

Cambodia has ratified all core ILO conventions and has a worker-friendly labour law. Union numbers have flourished, regardless of motivations and interests and regardless of representativeness. **The need for a law that governs the organisation, representativeness and structure of unions is essential** – *quantity of unions does not reflect "freedom of association" principles.* Cambodia's experience suggests that promoting *quality of unions* and ensuring representativeness will go a long way in promoting constructive, cohesive, peaceful and friendlier industrial relations management.

**The new law will ensure a complimentary structure of union and employer organisation and will ensure that those representing members are representative. This will greatly contribute to more constructive and effective social dialogue in the workplace, industry and national level including improve coordination and**

**engagement by ensuring both unions and employers have a representative counterpart to address.**

### ***A need to ensure law enforcement and improve accountability of worker and employer organisations***

*For both workers and employers, the lack of law enforcement has left many frustrated unable to exercise legal or other avenues when damages or illegal behaviour or actions occur. It is necessary that all parties are held accountable for actions under the law, and towards members.*

Much debate was pursued around **financial reporting and auditing and assumed government interference** – in particular for unions. For employers the distinction as a legal entity to report, pay tax, or pursue legal activities and report on these, is essential to ensure an equal "playing field" in doing our job as representatives and to ensure protection for the members which we represent. *It is not "interference", it is holding everyone accountable for the roles and responsibilities they play, including the fact that as a registered worker or employer body, we carry a legal responsibility towards our members to ensure our acts are not in breach of the law.* This responsibility towards members, in particular for unions, is an important aspect of representation **and** worker protection.

***"We<sup>16</sup> need to ensure that both the worker and the employer bodies are treated equally. What is good for one, is good for the other. Employers must also re-register and consolidate so that there is a clear, cohesive structure that we can work with."***

*Head of Government Trade Union Law Negotiation Delegation to CAMFEBA's trade union law negotiator in explaining the reasons behind getting employer bodies to restructure during trade union law negotiations.*

**The law ensures that union and employer leaders are held accountable and responsible towards their members. In addition it ensures that both employers and unions are held accountable and responsible for unfair labour practices. Clear procedures for strike and encouragement for better dialogue and discussion as opposed to confrontation are clearly articulated and encouraged.**

### ***Too many trade unions, too much exploitation: a need to move from quantity to quality representation – for a sustainable union movement, for workers and for social dialogue to be effective***

*The trade union movement in Cambodia suffers from fragmentation and multiplicity of unrepresentative unions. Competition is rife and infighting common place. Too often, competing interests result in workplace disruptions. Similar to employer organisations, human and financial capacity are constraints. These challenges hinder the development of*

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<sup>13</sup> Employer and industry associations are registered with a variety of different ministries relevant to their sector.

<sup>14</sup> GMAC

<sup>15</sup> Ministry of Labor and Vocational Training as of May 2015.

<sup>16</sup> "We" refers to the government here, in particular Ministry of Labour & Vocational Training.

*unified and cohesive union movement. They also cause great confusion for workers as well as social partners.*

**One of the greatest challenges unions face, is not the ability to unionise, but those who exploit the law for protectionism purposes, resulting in a proliferation of unrepresentative unions.** This protectionism, is both an exploitation of freedoms and undermines those who are genuinely working in the interest of workers. The motivations behind such protectionism is often personal self-interest, economic opportunities, rivalries and dissatisfaction between union leaders and political manipulation. **This exploitation in the union sector is addressed in the new law – to union and employer bodies through, (1) through number of members required to form and be considered representative and (2) ensuring both the rights of the leaders elected by its members, as well as the rights of the members. Both worker and employer bodies are treated equally in the law.**

*The freedom to associate in Cambodia, is demonstrated by the number of unions and union bodies registered over the years. There are an average of 7 unions per exporting factory if we evenly distribute union registration in the garment and footwear sector. One must ask the question, “Can you call the freedom to associate, freedom with genuine representation when many unions do not have a representative number of workers?” The answer is no. It is exploitation. The proof of which is an employer’s daily experience and well documented across industry:*

1. **CBA’s are impossible to negotiate** when working with unrepresentative and multiple unions. All too often the process or agreement is breached by minority unions, tarnishing the good will and efforts of those, genuinely trying to use a CBA effectively.
2. **At a national level, CBAs are disrespected by minority unions** leaving those having negotiated the CBA with little recourse to set an example for constructive industrial relations.
3. **Representative union bodies cannot control the actions minority unions** and their unlawful actions and behaviours reflect on the whole union movement.
4. **Outside interference, instigation of violence, intimidation of those who want to work** and choose not to participate in union violence is all too prevalent and crippling. No one is ever held accountable.
5. **Minority union interference hinders the work of representative unions genuinely working in the interest of workers.** Confidence and trust in social partners is paramount to successful negotiations. Good will is slowly eroding.
6. **Unions compete vigorously to attract members and infighting is rife often disrupting the work place during working hours.** Such fighting creates

confusion for workers, very often not knowing which union they belong too. Double counting of workers in different unions on the factory floor is common.

7. **Intimidation tactics and threats** towards workers wanting to work as well as management is common place but unnerving and bordering on blackmail.

**It is necessary to improve representation of workers at the factory floor and ensure they are genuinely represented.** For the worker and the employer. Will the draft law result in a fewer number or more representative unions? *The new law does not curb freedom to associate.* On the contrary, the law ensures that for both employers and unions, **the body that represents members, is representative.** As a result, CAMFEBFA believes that Cambodia will **have a stronger, more representative and cohesive union movement. Workers will be genuinely represented.** This is essential for industrial peace.

### ***Inability to negotiate CBAs***

*A Collective Bargaining Agreement (CBA) is an industrial tool that is used to guarantee the provisions and right of workers and their employer or industry at a company, industry and national level. It is a tool that is essential to the development of a more mature industrial relations environment.*

**Collective Bargaining Agreements and their significant positive effect on industrial relations is yet to be realised in Cambodia despite attempts by unions and employers to achieve CBAs.** This will never be realised, with a proliferation of unrepresentative unions who are not representing the majority of workers and are a cause of disrupting and disrespecting the processes and agreements. Both unions and employers need to be held accountable for violating a CBA or agreement in force.

**Industry level CBA’s have been crafted in the garment sector,** but the most recent experience shows disrespect by minority unions for the CBA. Simply, there are too many unions that neither the union confederations nor federations can control– particularly minority unions. CBA’s will never reach their intended outcomes, if the union movement itself, is not controllable, structured nor representative.

The same is the challenge on the factory floor. It is not possible to negotiate an effective CBA improving workers conditions and securing industrial peace, if there is no adequate representation of workers<sup>17</sup> and respect for a bargaining process.

**There are too few quality example CBAs in the garment sector today.** The content of CBA’s is weak and generally a repetition of the law. Both union and employer representatives, require education and training around the purpose, process and meaning of a real CBA.

**The new law, promotes CBAs and includes a clear process and representation of workers and management to ensure appropriate coverage of workers. The law**

Representative Status (MRS) union to pursue collective bargaining agreements with today.

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<sup>17</sup> Often a factory manager will need to coordinate and manage several union representatives and competing and conflicting demands during a CBA process. There is no unified voice or Most

**looks to promote CBAs that genuinely have the best interests of workers and enterprise sustainability at heart.** *Significant education and training will need to be done on processes and understanding the nature of negotiation, giving and taking. Both employers and workers need to be exposed to best practise in what CBAs look like and capacity building should be conducted jointly with unions and employers.*

**Strikes should be a last resort, outside interference needs to be stamped out**

*A strike is a tool that is used as a last resort when all other avenues have been exhausted. A strike must follow due legal process to ensure that all stakeholders are aware of what is to come. Without such a process and compliance, Cambodia risks having an increasingly unattractive and unstable business climate. Everyone has a serious responsibility to promote industrial peace.*

*Unions who have no members in a workplace but interfere in workplaces, are called "outside unions" and their actions "outside interference". Unions, who do not have worker membership in an enterprise or industry, have no authority to interfere, demand or force an employer to meet. Such unions also have no authority to demand to negotiate with employers.*

**Outside interference is rarely an attempt to genuinely help workers in bargaining for rights,** rather it is an attempt to disrupt, participate in illegal behaviour, and trump personal interests and seek economic benefits. Such behaviours must be ended and unions require to understand the scope of their responsibilities.

*"Our greatest challenge is not the relationship with our union in our factory whom we have a very proactive relationship with. It is the constant interference from outside unions who come with ambiguous agenda's and often intimidating approach."*

*Head of Operations, multinational manufacturer in food, beverage & tobacco industry. May 2015.*

**Almost 100 percent of strikes in Cambodia do not follow the legal process and employers are often forced to pay the wages of workers during strikes.** There is no penalty for bad and illegal practise and behaviour. On the contrary one could say that these bad behaviours are endorsed precisely because workers get paid for striking in many cases as a last resort from employers to maintain peace and get production back on track.

*".....70 percent of strikes involved unions not registered at the factory at which they took place, 8 percent were carried out by non-union workers and none of the strikes were carried out legally..."*

*GMAC study on 2015 strikes. Phnom Penh Post, May 26, 2015, page 4.*

**Unions and employers agree that the overwhelming majority of strikes are due to miscommunication, misunderstanding and lack of patience in managing industrial relations.** Between worker and employer

representatives and amongst worker representatives, miscommunication and misunderstandings are all too common and the reason for many wildcat illegal strikes. Many workers often do not understand why they are striking – they often strike to follow the norm and often out of fear and intimidation. **The number of lost productivity and working man days** to strikes accounted for **202,204 days** in 2010 and **513,444** in 2014. Everyone loses and there are no winners, reduced earnings for workers (productivity and variable pay losses) and their families, lost production including asset productivity to the employer, lost economic benefits to the economy, lost consumption to SMEs supporting the sector. **Strikes as a tool to pursue improved worker conditions, must be a last resort and both unions and employers need to demonstrate patience and understanding in exhausting all options before taking strike or lockout action respectively.**

*"...strikes in the Kingdom's garment industry picked back up, largely because of poor communication between employers and workers."*

*Kong Athit, Vice President of the Coalition of Cambodian Apparel Workers Democratic Union. Phnom Penh Post, May 26, 2015, page 4.*

**The new law, clearly defines strike and lockout procedures including dispute resolution procedures.**

Implementation, education and enforcement of the law is essential to ensure that all parties are held accountable. By ensuring truly representative unions the new law should have an effect on raising the quality of the dialogue and interaction between constituencies and broaden the issues that form part of the dialogue including skills, job growth and creation, economic diversification etc.

Furthermore, the arbitration council has played an important role in dispute resolution, and will only hear cases if parties are not striking. Arbitration Council rulings are referred to and taken into account by investors when setting up their employment rules and policies, not only in the garment sector. It should continue to strengthen its role in dispute resolution. The arbitration council needs to continue its work. With the formation of labour courts and better enforcement of laws more broadly, significant gains can be made in stabilising industrial relations.

**Industry challenges impact the broader economy**

**The knock on effect of strikes, cannot be underestimated**

There are no clear or precise calculations on the losses incurred by strikes, but they are significant. GMAC estimates the political unrest and violence<sup>18</sup> in early 2014 cost 95 factories who responded to their survey around 77.4 million US dollars in production losses and damages. This number is astounding given it represents only 95 factories. Private

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<sup>18</sup> The violence in 2014 is often referred to as a strike as the minimum wage negotiations became a political after the 2013 elections. We refer to the losses during the January 2014.

## Cambodia's Trade Union Law. A Necessity.

### *A necessity for industrial peace and economic growth, sustainability and diversification*

hospitals were burnt down by activists and losses incurred by others servicing the sector, and rural areas who benefit from remittances of the sector are. Of course, the loss of life and maiming of by standers and public officials, some who are disabled today, cannot be quantified in dollar value.

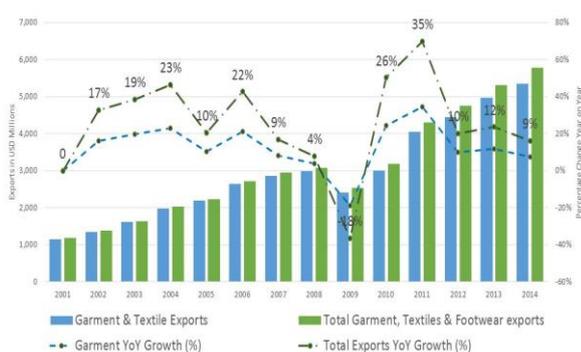
The garment sector does not only employ a vast number of workers from rural areas, **but has an important impact on stimulating the economy and growth of SME enterprises and entrepreneurs.** This includes food vendors servicing the sector, professional services, hotel and accommodation services, transportation, rural development and entrepreneurship through remittances to families etc.

**Strikes do not only impact the garment sector, but all those sectors servicing the industry and benefiting from the existence of industry and the jobs that it provides. At the end of the day, the result is significant economic losses, not only for the sector, but also for the people and families who rely on its employment and tangible knock on effect on other supporting industries.**

It is important to note that the majority of workers in the garment sector have little other employment opportunities at present *given the lack of industrial diversification.*

Workers are reliant on the garment sector employment opportunities alternately they migrate to neighbouring countries in search of work. The violence that occurred in early 2014 made many investors and buyers re-evaluate the risks entailed with concentrating production in Cambodia. Despite an almost 30 percent increase in wage and subsequent factory negotiations to increase allowances with workers, orders did not flow as expected. **This effectively reduced the overall earnings of workers as productivity and overtime pay declined significantly as reported by workers to the press. Export increases are slowing compared to previous years – for the first time, growth is below double digits since the financial crises.**

**Figure 1: Declining exports in garment and footwear sector**



Source: Garment Manufacturers Association of Cambodia (GMAC)

Every industry in Cambodia has a vested interest in seeing the garment and footwear sector grow, diversify up the value chain and move towards peaceful and constructive industrial relations. The new Trade Union Law is a first step in setting a progressive and clear mandate for both employer and unions. Each party needs to be pro-active and engage to build more constructive relations. Capacity building and

information dissemination should be done jointly, so that both employer and union bodies are working together constructively and building the bridges of successful relations and understanding of the challenges each faces.

**The new law is an important opportunity for both unions and employers to re-think their engagement and structures.** Through our many tripartite negotiations, unions, employers and government have agreed on the rules, the boundaries and key issues that should contribute to improved industrial relations management. It is the will and positive approach of tripartite constituents in Cambodia and those who work with us that will make a real change.

*“There has been no engagement from local or international unions on critical matters such as skills, productivity and job growth. There is a need for international unions to engage more constructively with Cambodia and consider the realities of the economic and social environment within Cambodia's context and realities.”*

*Sandra D'Amico, Vice President, CAMFEBA.*

***A need to focus on skills, productivity and industry diversification. A real opportunity to build trust and respect.***

*Unions feel employers do not listen or respect union concerns. Employers feel unions do not respect or understand employer concerns and constraints. Skills, productivity and industrial diversification are an opportunity for both parties to build trust and respect on topics that both employers and unions can jointly benefit from without confrontation. The long term benefits of focussing on skills, productivity and diversification, should be a great legacy that we leave for the next generation.*

**So much energy is spent dealing with challenges related to managing industrial relations, that the agenda on skills and productivity building is too often put to the side, or till a later date when there is time to focus on what is, the biggest challenge Cambodia faces – relevant industry and skills training provision so that workers are more productive and higher wages can be offered for higher value added work.**

In addition, diversification of the economy takes time – it requires investment and infrastructure planning and promotion and being able to demonstrate that Cambodia has the capacity to provide the workforce for more industrialised and higher value production.

**The productivity and skills aspects of industrial diversification need to be a priority for unions and employers.** Here is a great opportunity to work

constructively on an issue that is beneficial for generations to come and in so doing – rebuilding the trust and respect that is essential in embarking on a more constructive and engaged industrial relations management agenda, which will be realised with the passing of our new Trade Union Law.

*“Skills are critical assets for individuals, businesses and societies. Matching skills and jobs has become a high-priority policy concern, as mismatches, occurring when workers have either fewer or more skills than jobs require, may result in an*

*underutilisation of existing human capital and result in job vacancies not being filled in."*

*World Economic Forum Global Agenda Council on Employment. 2014.*

## **Conclusion: A new law, a new industrial relations era for Cambodia**

Drafting and adoption of the new law governing unions and employers is only a first step in Cambodia's pursuit and vision to adopt a progressive, peaceful and constructive industrial relations framework. A lot will need to be done, to ensure that Cambodia achieves its vision. Everyone has a role to play.

### ***CAMFEBA appeal to ambassadors and trade missions***

CAMFEBA asks ambassadors and trade missions to support the adoption of the trade union law which addresses Cambodia's real challenges today and sets a visionary platform for industrial relations in which employers and workers are represented effectively and contribute to worker protection and engagement in the development and diversification of the Cambodian economy.

CAMFEBA asks ambassadors and trade missions to encourage your buyers to continue supporting Cambodia and placing orders.

CAMFEBA asks ambassadors and trade missions to also engage with employer and industry bodies, to get a more balanced view of the realities of industry and challenges investors face.

### ***CAMFEBA appeal to Buyers***

CAMFEBA asks buyers to support the adoption of the trade union law which addresses Cambodia's real challenges today and sets a visionary platform for industrial relations in which employers and workers are represented effectively and contribute to worker protection and engagement in the development and diversification of the Cambodian economy.

CAMFEBA asks buyers to engage with Cambodian industry and employers' associations (GMAC and CAMFEBA) or seek information and perspectives to have a balance view and understanding of the realities of Cambodia.

CAMFEBA asks buyers to remain vested in Cambodia and increase the number of orders placed. Our industry need orders not to ensure survival of factories (orders to fill production for a month or two), but to ensure sustainability and security of employment numbers in Cambodia which will greatly assist in managing expectations of workers and sustainability of factories

### ***CAMFEBA appeal to international trade unions***

CAMFEBA asks the international trade unions to support the adoption of the trade union law which addresses Cambodia's real challenges today and sets a visionary platform for industrial relations in which employers and workers are represented effectively and contribute to worker protection and engagement in the development and diversification of the Cambodian economy.

CAMFEBA requests international trade unions to pay more attention to the real economic constraints and challenges faced by constituents in country. Your agenda, is not always what a Cambodia priority is.

### ***CAMFEBA appeal to International Labour Organisation (ILO)***

CAMFEBA asks the ILO to support the adoption of the trade union law which addresses Cambodia's real challenges today and sets a visionary platform for industrial relations in which employers and workers are represented effectively and contribute to worker protection and engagement in the development and diversification of the Cambodian economy.

CAMFEBA requests the ILO to re-evaluate the relevance of services and objective of Better Factories Cambodia. The program should indirectly have a positive impact on industrial relations. The program itself has little relevance if export numbers continue to decline, buyer orders are not increasing and industrial relations continues to be challenging.

CAMFEBA requests the ILO to focus its technical activities in particular its flagship projects such as Better Factories Cambodia (BFC) in providing demand driven support to its constituents.

### ***CAMFEBA appeal to our Cambodian Trade Unionists***

CAMFEBA asks our Cambodian Trade Unionists to support the adoption of the trade union law which addresses Cambodia's real challenges today and sets a visionary platform for industrial relations in which employers and workers are represented effectively and contribute to worker protection and engagement in the development and diversification of the Cambodian economy.

CAMFEBA requests our fellow trade union leaders to continue with your efforts to engage in more constructive dialogue, particularly on the factory floor. It is important also to continue to raise challenges to industry and employer bodies when you feel you are not getting the engagement required. While your employer body is likely not able to attend to all requests, we can certainly improve communication to members as well as capacity building to members to help them engage more effectively with representative union bodies.

CAMFEBA requests our fellow trade union leaders to try to use strikes as a last resort. Be patient, be thorough in your attempts to engage, and please call on GMAC and/or CAMFEBA to send representatives to support a balanced negotiation so that we can all make an effort to reduce strikes and industrial disputes.

CAMFEBA requests our fellow trade union leaders to also understand that not all demands can always be met. That does not mean you require to strike. Please be reasonable and learn that negotiation is about giving and taking. Try to be strategic in your approaches rather than disruptive. Be patient and be clear.

***CAMFEBA appeal to Government***

CAMFEBA asks the Royal Government of Cambodia to make every effort to adopt the law governing worker and employer representative bodies.

CAMFEBA requests the Royal Government of Cambodia to continue its efforts in building tripartite dialogue in Cambodia.

We request the Royal Government of Cambodia, in particular the ministry of labour and vocational training to pay attention to the **enforcement of the law in a manner that promotes understanding between parties, builds capacity and understanding of our roles, responsibilities and accountabilities.**

CAMFEBA requests the government to give sufficient time for unions and employer organisations to restructure and re-register under the new law and in particular to consult employer and worker organisations on reasonable timeframe.

***Successful Business, Prosperous Cambodia*** is the motto we stand by. Industrial relations peace, stability and predictability, is at the heart of successful business and as a result, jobs and employment opportunities that contribute to a prosperous Cambodia, its people, economy and long term sustainability.

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**CAMBODIAN FEDERATION OF EMPLOYERS AND BUSINESS ASSOCIATIONS**

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