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# Foreign Labor Trends: Cambodia

## **Keywords**

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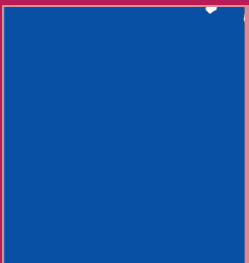
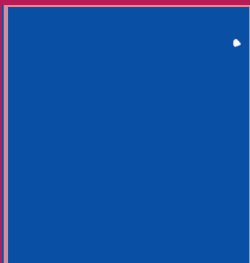
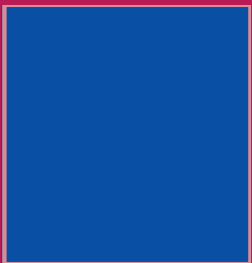
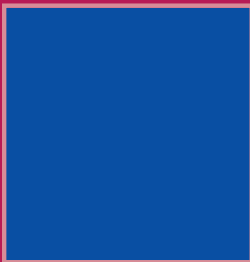
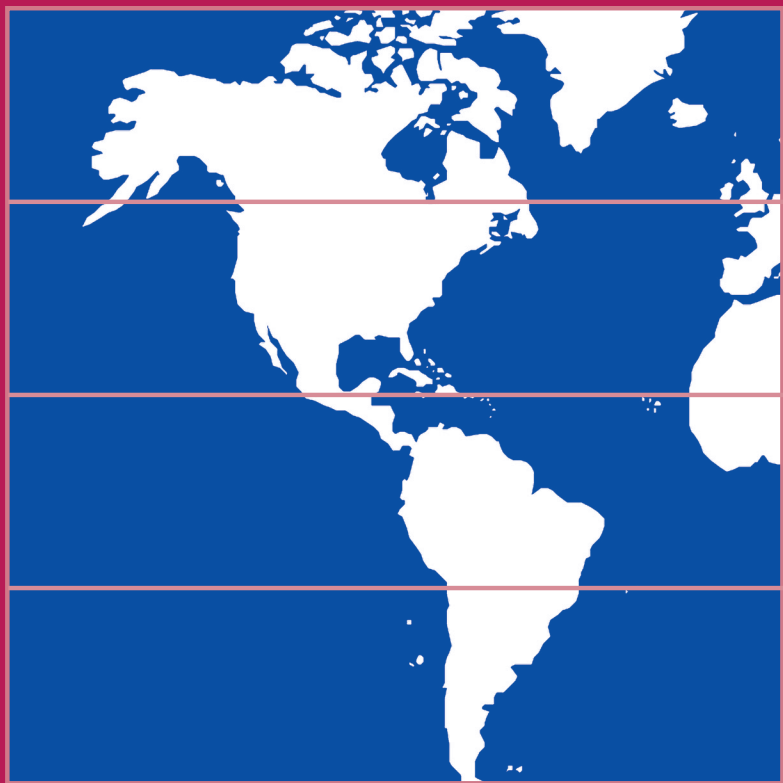
# Foreign Labor Trends

Cambodia



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# KEY LABOR INDICATORS

## Cambodia 2003

| <u>INDICATOR</u>  | <u>2001</u> | <u>2002</u> | <u>%<br/>CHANGE</u> |
|---|-------------|-------------|---------------------|
|   | <u>1999</u> | <u>2000</u> |                     |
| 1. Per capita GDP current prices (US\$)   | 268         | 253         | -5.6                |
| 2. —, in agriculture (%)  | 51          | 43          | -15.7               |
| 3. —, in manufacturing (%)  | 15          | 20          | 33.3                |
| 4. —, in services (%)   | 34          | 37          | 8.8                 |
| 5. —, (riels, millions)   | 1.02        | 0.97        | -4.9                |
| 6. Population, total (millions)   | 11.56       | 12.21       | 5.6                 |
| 7. —, in major ethnic groups (%)  |             |             |                     |
| Khmer (%)   | 90          | 90          | 0.0                 |
| Vietnamese (%)  | 5           | 5           | 0.0                 |
| Chinese (%)   | 1           | 1           | 0.0                 |
| Other (%)   | 4           | 4           | 0.0                 |
| 8. —, in major urban areas (millions)   | 2.13        | 2.40        | 12.7                |
| 9. Birth rate (per thousand population)   | 41.05       | 33.48       | -18.4               |
| 10. Life expectancy at birth, total   | 48.24       | 56.53       | 17.2                |
| 11. —, male   | 46.81       | 54.44       | 16.3                |
| 12. —, female   | 49.75       | 58.74       | 18.1                |
| 13. Adult literacy rate (%)   | 71.2        | 68.2        | -4.2                |
| 14. Labor force, civilian, total (millions)                                     | 5.54        | 5.40        | -2.5                |
| 15. —, male (%)   | 2.64        | 2.60        | -1.5                |
| 16. —, female (%)   | 2.90        | 2.80        | -3.5                |
| 17. —, in informal economy (% est.)   | n/a         | n/a         | ~                   |
| 18. Employment, civilian, total (millions)                                      | n/a         | n/a         | ~                   |
| 19. —, in industry (%)  | 6.4         | 8.3         | 29.7                |
| 20. —, in export processing zones (%)   | n/a         | n/a         | ~                   |
| 21. —, in agriculture (%)   | 76.5        | 73.7        | -3.7                |
| 22. —, in services (%)  | 6.4         | 7.0         | 9.4                 |
| 23. Unemployment rate (%) <sup>1</sup>  | 0.6         | 2.5         | ~                   |
| 24. Underemployment rate (%) <sup>2</sup>                                       | 6.5         | n/a         | ~                   |
| 25. Labor productivity, manufacturing (% change)                                | 6.5         | n/a         | ~                   |
| 26. Work-related accidents and illnesses (000)                                  | n/a         | n/a         | ~                   |
| 27. Days lost from industrial disputes  | 157         | 136         | -13.4               |
| 28. Minimum monthly wage rate, garment & footwear<br>(riels, 000)               | 152.3       | 172.8       | 13.5                |
| 29. —, (US\$)   | 40          | 45          | 12.5                |
| 30. Average daily earnings by major industry (US\$)                             | n/a         | n/a         | ~                   |
| 31. Hourly compensation costs for production<br>workers in manufacturing (US\$) | n/a         | n/a         | ~                   |
| 32. —, (riels)  | n/a         | n/a         | ~                   |

<sup>1</sup> This data is not reliable.

<sup>2</sup> *Ibid.*

## Cambodia 2003

| <u>INDICATOR</u>   | <u>2001</u> | <u>2002</u> | <u>%<br/>CHANGE</u> |
|--|-------------|-------------|---------------------|
|  | <u>1999</u> | <u>2000</u> |                     |
| 33. Monthly compensation costs for laborers (US\$)               |             |             |                     |
| —, motorbike taxi driver   | 62          | 85          | 37.1                |
| 34. —, clerical <sup>3</sup>                                     | 150         | 150         | 0.0                 |
| 35. —, mechanic <sup>4</sup>                                     | 80          | 80          | 0.0                 |
| 36. —, commercial assistant <sup>5</sup>                         | 350         | 350         | 0.0                 |
| 37. Supplementary benefits as % of<br>manufacturing earnings     | n/a         | n/a         | ~                   |
| 38. Average hours worked per week <sup>6</sup>                   | 48          | 48          | 0.0                 |
| 39. Unionization of labor (%) <sup>7</sup>                       | 0.55        | 1.0         | 81.8                |
| —, in garment industry (%) <sup>8</sup>                          | 7.5         | 12.5        | 66.7                |
| 40. Average personal income per year (US\$)                      | n/a         | n/a         | ~                   |
| 41. Avg. disposable income after taxes and<br>withholding (US\$) | n/a         | n/a         | ~                   |
| 42. Percent of population beneath poverty level <sup>9</sup>     | 35.9        | 36.0        | 0.3                 |
| 43. Consumer price index (% change, in riels)                    | n/a         | 0.5         | ~                   |

n/a = not available

Exchange rate: US\$ 1= 3,840.8 Cambodian riels (2000); 3,807.8 (1999).

Sources: Cambodia Development Resource Institute; Ministry of Economy and Finance; Ministry of Planning Socio-Economic Survey; Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation; National Institute of Statistics; and *The World Factbook 1999* and 2000, (Washington, DC: Central Intelligence Agency).

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<sup>3</sup> U.S. Embassy estimate

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> The United Nations Development Program (UNDP) estimates 39.5% of the population falls below the poverty line.

## **SUMMARY**

Cambodia has a labor force of 5.4 million, with a large majority engaged in subsistence farming. Roughly 8 percent of workers are employed in the industrial sector, and of these, about 188,000 work in the garment industry. Garment workers are guaranteed a monthly minimum wage of US\$ 45 and earn on average US\$ 61 per month. Cambodia has no social safety net programs currently in place for its workers, and according to the United Nations, roughly two-fifths of the population are poverty stricken.

Cambodia is developing a tripartite labor system. The Ministry of Social Affairs, Labor and Youth Rehabilitation (MOSALVY) formulates labor policy and implements and enforces the labor law. In 2000, the Cambodian Federation of Employers' and Business Associations (CAMFEBA) was created to provide employers a united voice on labor matters. There are 9 registered labor federations/national unions that claim to represent approximately 160,000 workers. Eight of these federations are based in the garment sector. Both labor and business actively participate on a government advisory committee that deals with labor issues.

The Constitution and the Labor Code guarantee worker rights in Cambodia, but these rights are inconsistently enforced in practice. The Labor Code applies only to the formal sector. Collective bargaining is practically non-existent and most collective agreements currently in place do not provide for more than what is guaranteed by law. While child labor is not prevalent in the formal sector, including the garment industry, children can be found working in brick factories, agriculture, and the commercial sex industry. There is also evidence of underpayment of wages, excessive overtime, and unsafe working conditions. For its part, the Government asked for and is receiving technical assistance from the International Labor Organization (ILO) to eradicate child labor and to monitor working conditions in Cambodia's garment and textile industries, as well as to establish a mechanism to resolve labor disputes in the absence of a labor court.

## **BACKGROUND**

In 1993, Cambodia re-established its constitutional monarchy, and political stability finally was achieved with the diminishment of the Khmer Rouge and the forming of the coalition government following the 1998 national elections. King Norodom Sihanouk is the constitutional monarch and Head of State, and Hun Sen of the Cambodian People's Party (CPP) serves as Prime Minister. Prince Norodom Ranariddh of the National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia is President of the National Assembly, and Chea Sim of the CPP is President of the Senate. The balance of power lies with the executive branch, as the National Assembly does not serve as a significant check. The judiciary suffers from corruption and frequently is subjected to both executive and legislative influence.

Cambodia is a poor country that only established a market economy in 1991. During 1997 and 1998, Cambodia experienced political instability and the effects of the Asian financial and economic crisis. The country has since recovered and remains in a period of unprecedented stability. Yet, with the exception of the thriving garment export industry, foreign investment has lagged, and foreign aid instead has become an important component of national income.



## **DESCRIPTION OF THE LABOR SCENE**

### **Government**

MOSALVY is responsible for issuing labor regulations and enforcing the labor law. MOSALVY conducts workplace inspections and mediates workplace disputes; however, the penalties proscribed for infractions of the Labor Code are insignificant, and some factories defy Ministry orders. The Government's enforcement efforts have been hampered by a lack of political will and by confused financial and political relationships with employer and union leaders. The Ministry also suffers from a lack of resources, including trained, experienced labor inspectors, in part because it does not pay its staff adequate salaries. MOSALVY chairs Cambodia's tripartite Labor Advisory Committee (LAC), a forum that has been used effectively by employers, workers and the government to discuss and address issues related to labor policy in Cambodia. MOSALVY also is an active participant at the ILO.

### **Employers**

CAMFEBA was established in 2000, allowing employers to address labor issues with a single voice. CAMFEBA represents 6 business associations and over 600 employers. The Garment Manufacturers Association of Cambodia (GMAC) is the federation's most notable member, with Van Sou Ieng, Chairman of GMAC, serving as the President of CAMFEBA. The GMAC is a financial contributor (US\$ 200,000) and active participant of the ILO's project to monitor working conditions in Cambodia's garment and textile factories. The ILO has expressed its willingness to cooperate with CAMFEBA as the national employers' organization.

### **Trade Unions**

The Cambodian Unions Federation (CUF) is the largest labor organization in Cambodia, claiming to represent over 55,700 members, 90 percent of whom work in the garment industry. CUF has established unions in 125 garment factories and 7 other enterprises, although only 60 of its unions are registered with MOSALVY. CUF is not one of Cambodia's most assertive labor unions; CUF members rarely participate in demonstrations, and union leaders have publicly downplayed problems in the workplace. In addition, the U.S. Embassy has observed that the level of union awareness in CUF factories varies considerably. Notwithstanding, Chuon Mom Thol, President of the CUF, serves as vice-chairman of the LAC and frequently represents Cambodia's labor movement at international functions, including at the ILO. He tends to speak on behalf of the Cambodian labor movement as a whole, although he has no authority to do so. CUF also receives funding from the ILO for its cooperation with the ILO's International Program for the Elimination of Child Labor (ILO-IPEC).

The Cambodian Federation of Independent Trade Unions (CFITU) is the direct descendant of Cambodia's former communist-era national trade union but became formally independent in May 1999. CFITU claims to have over 24,807 members in 56 enterprises, including 48 garment factories. The remainder of CFITU unions are in state-owned or former state-owned rubber, cement and beverage industries, and the Sihanoukville port. The level of activity of CFITU unions varies considerably from enterprise to enterprise. CFITU has well-established unions in some factories where the workers are aware of the union and participate in its activities, but in other enterprises, union awareness seems to be limited to a handful of individuals. CFITU is working to expand its membership, reinvigorate its constituent unions and increase its revenues

through the collection of dues. The federation places a priority on preventing its members from participating in labor demonstrations, although this has begun to change in the last two years. As one of five members representing labor, CFITU has a strong official voice on labor policy through its seat on the LAC.

The Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) was officially registered in 1998, after MOSALVY relaxed its rules for trade union registration to allow for unitary national unions. It was originally organized as a single national labor union, but since early 2000, has begun the process to register factory unions individually with MOSALVY. FTUWKC claims to represent about 23,000 members in 80 factories, including a few hundred members in the shoe industry, and has separately registered 45 garment factory unions with MOSALVY. FTUWKC maintains an affiliation with the opposition Sam Rainsy Party. The U.S. Embassy has observed that FTUWKC's leadership maintains close contact with its rank and file and that the federation is highly active in bringing worker grievances to the attention of employers and the government. Some FTUWKC protests have involved violence on the part of demonstrators; however, the federation now appears to be less prone to calling strikes or holding demonstrations than it has in the past—an indication of the federation's increasing maturity. FTUWKC also has taken a very public role in pressing for improved workers rights in general. In 2000, it initiated a successful campaign to increase the minimum wage for garment workers, and the federation is pushing for a reduction in the workweek from 48 to 44 hours. FTUWKC draws considerable criticism from government officials who publicly dismiss its labor activism as mere opposition politics. Nonetheless, FTUWKC currently holds one of the five seats representing the interests of labor on the LAC.

Garment factory workers created the National Independent Federation of Textile Unions in Cambodia (NIFTUC) as a federation of grassroots labor unions, with assistance from the Cambodian Labor Organization (CLO), a local non-governmental organization (NGO). NIFTUC and four constituent unions officially registered with MOSALVY in August 1999. NIFTUC now claims to have more than 17,000 members in 24 factories, including 1 shoe factory and 2 textile factories. NIFTUC maintains close contact with its rank and file and has been a vocal advocate for its members. NIFTUC has staged several strikes and demonstrations over the past year. Violence occurred during several demonstrations, sometimes initiated by union members. In spite of the high level energy of its members, a shortage of resources has severely limited NIFTUC's effectiveness in advancing the interests of its members. In 2000, the federation was embroiled in a very public dispute with CLO, which began when a NIFTUC factory union allegedly accepted money and other favors from a garment factory manager with whom they had a long-standing dispute.

The Khmer Youth Federation of Trade Unions (KYFTU) was established when several CFITU-affiliated factory unions, led by the husband of a CFITU union leader, broke away for reasons that are unclear. MOSALVY formally registered KYFTU in November 2001. The federation claims to have over 16,000 members, consisting of 10 unions registered with MOSALVY and another 22 that have applied for formal recognition. All of KYFTU's unions are in garment factories, with the exception of one jewelry fabrication plant union. KYFTU suffers from a lack of resources but has become involved in mediating some factory disputes. Additionally, KYFTU has joined other federations in calling for the government to reduce the number of hours in the workweek.

The Cambodian Labor Union Federation (CLUF) claims to have about 7,000 members in 14 factories, with 11 unions registered with MOSALVY. CLUF is the successor to the Free Unions Federation (FUF), whose then-president was also an investor with garment factory interests, as well as advisor to Cambodia's Prime Minister. In its heyday, FUF claimed to have over 38,000 members in 96 garment factories, but there is little evidence that the union ever existed anywhere other than on paper. MOSALVY re-registered the federation under its new name in

July 1999, and CLUF elected a new president in January 2000, even though the federation was completely inactive at those times. CLUF's president Som Aun comes from a white-collar union of employees of a small real estate company owned by the same investor who created FUF. The U.S. Embassy cannot determine how CLUF obtains funding. CLUF's leadership has issued a number of lavishly pro-government public statements in the past, admonishing its members not to participate in labor demonstrations. During the past year, however, CLUF has been involved in several disputes with employers and has echoed the frustration of independent unions with bad employer practices and poor government enforcement of the Labor Code. It is unclear if these recent actions mark a shift towards a more independent federation. CLUF also is an active participant in the LAC.

During NIFTUC's falling out with CLO, some members of the federation broke away and formed a new federation, the Coalition of Cambodia Apparel Workers Democratic Unions (CCAWDU), which was formally registered by MOSALVY in July 2001. The federation claims to represent roughly 7,000 workers in 14 affiliated garment industry unions, 11 of which are registered with MOSALVY. CCAWDU maintains close contact with its rank and file, and it has been a vocal advocate for its members and has staged a number of strikes and demonstrations. CCAWDU also retains a close relationship with CLO and receives funding through member dues and Oxfam Belgium. The federation joins FTUWKC and NIFTUC as the three most active and independent labor federations in Cambodia. CCAWDU, however, has yet to win election to a seat on the LAC.

The Cambodian Workers Labor Federation Union (CWL FU) was formally registered in May 2001. The federation is led by a garment factory administrator who claims that CWL FU represents more than 4,000 garment factory workers in 8 MOSALVY-registered unions. CWL FU leaders admit that the federation's activity is severely hampered by insufficient resources, and during its short history, CWL FU has been relatively inactive and silent on issues related to Cambodia's labor policy.

Registered by MOSALVY in July 2001, the Cambodian Union Federation of Building and Wood Workers (CUFBWW) has roughly 2,100 members and affiliated unions in several cement, brick and plywood factories. CUFBWW is closely affiliated with and depends upon CUF for financial support and office space. The federation's leaders claim that a government-imposed logging moratorium and a decline in overall investment have severely hampered its efforts to attract new members and organize construction workers in Cambodia.

The Cambodian Construction Federation Trade Union (CCFTU) is a federation of independent unions representing construction and temple restoration workers in the Siem Reap/Angkor Wat area. CCFTU claims to have 1,600 members but has experienced significant delays (over a year) in its continuing efforts to register as a federation with MOSALVY.

The Worker's Union for Economic Development (WUED) is an independent labor union that was established in February 1998 at the British American Tobacco Factory, and it is in the process of registering with MOSALVY as a federation in the food, beverage, hotel and tourism industries. WUED claims to have 1,223 members, mostly within the British American Tobacco Factory. WUED's recent efforts to establish unions in other factories have been stifled by apparent wrongful dismissals of union leaders and other forms of anti-union discrimination.

The Cambodian Independent Teachers' Association (CITA) is Cambodia's first association of civil servants to function like a union. Because the Labor Code does not apply to civil servants, the Ministry of Interior (MOI) registered it essentially as an NGO in 2001. To date, CITA has managed to attract just 700 members out of Cambodia's 85,000 civil servant teachers. On two separate occasions, CITA has called on teachers to strike to protest their low salaries, but neither effort has been successful. However, the Government moved in late 2000 to preempt a

threatened CITA strike by increasing all civil servant salaries by 10 percent, despite the objections of the International Monetary Fund. Should CITA increase its numbers and effectiveness, it may face yet another challenge in that the laws that govern civil servants are silent on whether their associations can participate in collective bargaining. Although there is no indication that CITA receives direct financial support from the opposition Sam Rainsy Party, the two organizations are clearly linked.

## **THE ECONOMY AND LABOR**

Cambodia has an agrarian economy, with more than 70 percent of the work force engaged in agriculture. The vast majority of agricultural workers are subsistence rice farmers, many of whom supplement their income with hunting, fishing or part-time employment. The United Nations Development Program estimates that 39.5 percent of the population falls below the poverty line, which is defined as the minimum income required to provide 2,100 calories per day and basic items such as clothing and shelter. A socio-economic survey conducted by the Ministry of Planning indicated a slightly lower poverty rate of 36 percent in 2000.

The Cambodian economy was stagnant during the 1980s, but commencing with the establishment of a market economy in 1991, Cambodia averaged a modest (although inconsistent) growth averaging 3.2 percent per year during the 1990s. In 1999, Cambodia experienced its first full year of peace and achieved economic growth of five percent. In 2000, severe flooding damaged the agricultural crops; still, the country's real gross domestic product (GDP) increased by four percent, with a strong performance by the garment manufacturing industry. According to the Asian Development Bank, Cambodia attained a growth rate of over five percent in 2001 despite the global economic slowdown. The agricultural sector grew by 5 percent, accounting for 32 percent of the Cambodian economy, and the services sector increased by 1.9 percent; however, growth in the industrial sector slowed to 12 percent.

Cambodia also has experienced very high rates of population growth, averaging 2.9 percent per year over the past 2 decades (1980 to 1998), which has resulted in roughly 200,000 new labor force participants per year. Notwithstanding, the Cambodian labor force experienced a 2.5 percent decrease in 2000, while at the same time, the Government reported an increase in the unemployment rate from 0.6 percent in 1999 to 2.5 percent in 2000. While Cambodia's labor force is largely unskilled, the country is beginning to experience a migration from rural to urban areas and from labor-intensive agriculture to industrial employment. Industrial workers accounted for roughly 8 percent of the 5.4 million work force in 2001.

An estimated 188,000 Cambodians worked in the garment industry in 2001. During that year, the garment industry accounted for US\$ 1.119 billion in exports (88 percent of Cambodia's total exports). Roughly 71 percent of Cambodian garment exports are to the United States, with the remainder going to Europe. (Cambodia enjoys duty-free and quota-free access to the EU apparel market but faces quota and duties in the U.S.)

### **Key Garment Industry Indicators**

|  | <b>1999</b> | <b>2000</b> | <b>2001</b> |
|--|-------------|-------------|-------------|
| Total Exports to the US (US\$, millions) | 653         | 965         | 1120        |
| Total Exports to the EU (US\$, millions) | 138         | 221         | 309         |
| Total Exports to Others (a)              | 0           | 8           | 18          |
| Percentage of Total Domestic Exports (b) | 76          | 86          | 88          |
| Percentage of Nominal GDP (b)            | 21          | 31          | 34          |
| Job Generation (c)                       | 96,574      | 122,644     | 188,061     |

Sources:

a: Department of Trade Preferences System, Ministry of Commerce

b: U.S. Embassy Calculations

c: Garment Manufacturers Association in Cambodia (GMAC)

## **FOREIGN INVESTMENT POTENTIAL**

Cambodia is a developing country with a market economy that depends heavily on foreign assistance. The 1994 Law on Investment allows for open and liberal foreign investment, and there are no performance requirements. In addition, all sectors are open to foreign investment, although publishing, printing, radio and television activities are limited to 49 percent foreign equity. There also must be some local equity in gemstone operations, brick making, rice mills, wood and stone carving enterprises and silk weaving. The Council for the Development of Cambodia (CDC) serves as a one-stop shop to facilitate foreign investment. Investors must submit their applications to the CDC, which has a maximum period of 45 days to review and provide a decision.

Cambodia secured Normal Trade Relations (NTR) status from the United States in 1996 and General System of Preferences (GSP) treatment in 1997. In 1999, Cambodia and the United States signed the U.S.-Cambodia Bilateral Textile Agreement (BTA), a groundbreaking three-year textile agreement that links quota levels to Cambodia's compliance with internationally recognized core labor standards. The U.S. and Cambodia recently renewed the agreement for an additional three years through December 2004.

The Government places priority on attracting investment to the agricultural and industrial sectors. By law, the Government is required to provide investment incentives to pioneer, high technology, and export-oriented industries, as well as to agro-industry. Investment in agriculture may improve productivity, but is not likely to create a net increase in employment opportunities. Thus, job creation in Cambodia will be linked to the growth of the industrial sector. To date, the Government has not been successful in encouraging the growth of new industries, except for garment manufacturing, which is an anomaly created by the availability of export quotas for the U.S. market as stipulated by the BTA. What happens in the garment industry, however, will likely set the stage for the development of workers rights in other industries.

## **SOCIAL SAFETY NET**

There is no public social safety net for workers in Cambodia. MOSALVY has drafted legislation to create a national pension, an unemployment insurance system and a workers compensation scheme. Given the Government's tight budgetary situation, quick passage and implementation of such legislation is not likely.

## **LABOR LAW AND SYSTEM**

Cambodia has made notable progress in the area of legally defining workers rights in the past several years. Cambodia has ratified all the fundamental ILO conventions, with the exception of ILO Convention No. 182 on the worst forms of child labor. In 1997, Cambodia replaced its communist-style labor code with a highly-detailed, progressive law which guarantees freedom of association and the right to strike, provides for the free registration of labor unions and collective bargaining, and sets a minimum age of employment. However, the Labor Code only covers the formal employment sector (defined as jobs in which there is an employer-employee relationship), which the ILO estimates represents less than 10 percent of the labor force.

The Government continues to refine its policies and improve implementation of the labor law. In late 1998, the Government liberalized procedures for trade union registration, a step which directly increased the number of officially recognized labor unions. The year 1999 saw the establishment of the tripartite LAC, which has begun performing its legally mandated role to review and approve labor regulations. In July 2000, the LAC exercised its mandate to review minimum wages for the first time, approving the first increase in the minimum wage for workers in the garment and footwear industry since 1997. The LAC met three times in 2001 and agreed to new regulations related to occupational safety and health. In November 2001, MOSALVY established rules for determining which unions have the right to represent workers for the purpose of collective bargaining. The new regulation also provides greater protections from dismissal for union leadership candidates and founding members.

In July 2000, the Ministry of Commerce and MOSALVY created an Inter-ministerial Committee with the responsibility of reviewing labor-related complaints from various sources and recommending penalties keyed to the severity of the violation. Penalties can include suspension of export privileges. The Inter-ministerial Committee has considered only a handful of cases, however, and has yet to demonstrate its resolve to ensure labor law compliance through the imposition of appropriate penalties at its disposal. MOSALVY continues to routinely refer cases to the courts, where unions complain of corruption, long delays, and inaction. The Government has not yet created a labor court system, as required under the Labor Code. The absence of a mechanism to resolve labor-management disputes fairly and expeditiously is a major shortcoming in Cambodia.

In January 2002, through funding from the U.S. Department of Labor (USDOL), the ILO initiated a labor dispute resolution project aimed at providing workers and employers a vehicle through which to resolve disputes in the absence of a labor court. The project's goals are to establish labor arbitration councils, train workers, employers and government officials in dispute resolution processes, and develop a cadre of mediators and arbitrators of labor disputes.

## **LABOR STANDARDS AND WORKER RIGHTS**

### **The Right of Association**

The Cambodian Constitution and the Labor Code guarantee freedom of association, and all workers can exercise this freedom, with the exception of household servants and civil servants, including teachers, judges, and military personnel. While workers have the right to form professional organizations of their own choosing without prior authorization, MOSALVY has accepted the charter of at least one union that requires workers to obtain permission before they may withdraw. The Labor Code also requires unions and employer organizations to register with MOSALVY. The Labor Code states that if the Ministry does not respond within two

months of receiving an application, the trade union or employer organization automatically receives recognition. While there were no complaints that the Government failed to register unions or labor federations in 2001, some unions and federations complained of unnecessary delays and costs.

The number of registered labor unions has risen from 20 at the end of 1997 to 245 as of January 2002. Four federations and 108 unions were registered during 2001. Collectively, Cambodia's 9 registered labor federations/national unions boast memberships of about 160,000. However, these figures seem to include cumulative, overlapping, out-of-date or entirely fictional information. Nevertheless, union membership continues to grow, and the U.S. Embassy estimates that 1 percent of Cambodia's labor force is organized, or roughly 13 percent of its total industrial work force.

Unionization of the work force is not significant outside the industrial sector, and within the sector, it is highly concentrated in the garment industry, where roughly 25 percent of all workers belong to a union. As of January 2002, only 27 out of 245 registered labor unions were in industries other than garments. These include 2 independent tobacco unions and 14 federation-affiliated unions in the rubber, cement, construction, wood processing, and hotel and beverage industries.

In July 2001, MOSALVY registered the first non-garment sector federation, a construction sector federation apparently spun off from a traditionally pro-government garment sector federation. Another independent construction federation's registration application has faced delays in its approval. In the last year, MOSALVY also has registered three relatively inactive labor federations, which tend to follow the government line and do not appear to have democratically elected leadership structures. There is mounting concern among the independent labor federations that the purpose of these new pro-government federations is to usurp their seats and their representation of workers interests on the policy setting LAC and other fora. Another fear is that all the pro-government federations may choose to create a super-federation in an effort to mitigate the importance of independent federations. One pro-government union sought in 2001 to organize a super-federation to affiliate with the International Confederation of Free Trade Unions. Another disturbing development has been the establishment of an NGO, the Cambodian Labor Solidarity Organization, headed by a MOSALVY official responsible for child labor issues, whose declared purpose is to protect the interests of Cambodian workers from disruption by strike-prone labor unions. The involvement of this organization in several labor disputes in 2001 coincided with the appearance on the scene of hired thugs who threatened strikers with violence.

None of Cambodia's labor federations/national unions are controlled by or are officially affiliated with the Government. The five pro-government federations, however, consistently align their positions on labor issues with those of the Government, and, while they do engage in dispute resolution and mediation, rarely, if ever, do they call on members to strike, even in cases in which factories refuse to address clear violations of the law. One national union is linked to, but not controlled by, the opposition Sam Rainsy Party. None of the labor federations/national unions are yet able to support themselves financially on the basis of dues collected from their membership.

The Labor Code provides for the protection of workers from discrimination on the basis of union activity, and in November 2001, MOSALVY promulgated new regulations, which provide union founding members, candidates for leadership, and leaders themselves with protection from dismissal. In practice, however, the Government has not effectively guaranteed such protection. There were credible reports of anti-union activity on the part of management, including harassment and dismissal of union leaders and members, intimidation of workers and interference in union formation and union activities.

In January 2001 (with funding from USDOL involving the Cambodian Government and GMAC), the ILO began a three-year project to monitor working conditions in Cambodia's garment and textile factories. The project issued its first report in November 2001, based on its inspections and evaluation of working conditions at 30 factories (out of 195 registered for the project). The ILO identified violations of freedom of association, including anti-union discrimination, as a problem but has since noticed improvement within these factories, except for a small number of cases. The ILO allows all factories that it monitors 90 days to address deficiencies before final individual factory reports are made public.

The Labor Code also allows for the right to strike and protects strikers from reprisal. There were 80 strikes in Cambodia during 2001, accounting for 136 days of lost work industry-wide. Many strikes were not carried out in accordance with the seven-day prior notice required by law. The Government has permitted all peaceful labor demonstrations in the past four years and has shown great restraint, even when some demonstrations became violent. The garment industry criticized the Government for its passivity when some violence and property damage occurred during labor demonstrations in 2000, 2001 and 2002.

Most, but not all, strikes stem from worker complaints that employers do not comply with the Labor Code. Cambodia's unions have developed the ability to express their grievances in terms of alleged violations of the Labor Code, while demonstrating more mature dispute resolution strategies as well as greater restraint than in the past. This increasing sophistication reflects the benefits of training provided by the ILO, CLO, and the American Center for International Labor Solidarity (ACILS), which re-established a presence in Cambodia in 2001.

## **The Right to Organize and Bargain Collectively**

The Labor Code provides for the right to organize and bargain collectively, and the November 2001 regulations establish a democratic process for determining who within an enterprise has the right to represent workers for the purpose of collective bargaining—a privilege previously afforded only to shop stewards. (The law originally provided for the election of shop stewards to represent workers. In practice, most factories elected shop stewards before a union was present in the enterprise, and unions, therefore, had no legal right to negotiate with management once they were established.) Yet, because of the weak capacity of Cambodia's labor unions and the difficulties they have faced in the recent past winning the right to negotiate with management, the practice of collective bargaining has not yet begun in Cambodia on a meaningful scale. To date, MOSALVY has registered 20 collective bargaining agreements. However, most of these collective agreements between unions and management tend to do little more than reaffirm existing rights under Cambodia's labor law.

## **Prohibition of Forced or Compulsory Labor**

The Labor Code prohibits forced or compulsory labor, which is not evident in Cambodia's formal employment sector. The country is a source, destination, and transit country for trafficking in persons. (Note the *Trafficking in Persons* section of this report for further information.)

## **Status of Child Labor Practices and Minimum Age for Employment**

The Labor Code sets the minimum age for employment at 15 years, but children between the ages of 12 and 15 are allowed to perform non-hazardous light work if it does not affect regular



school attendance or participation in other training programs. The Labor Code prohibits work that is hazardous to the mental and physical development of children under the age of 18, although the law does not define what types of work are considered hazardous. Children must have the consent of a parent or guardian in order to work, and employers must maintain a list of all working children below the age of 18. The Labor Code does not cover employment in the informal sector of the economy.

On August 23, 1999, Cambodia ratified ILO Convention No. 138 on minimum age but has not ratified ILO Convention No. 182 on the worst forms of child labor. MOSALVY has conducted four workshops to educate members of the National Assembly and Senate regarding ILO Convention No. 182 and has submitted it to the Council of Ministers for approval before submission to the National Assembly for ratification. Observers report, however, that Cambodia's existing domestic legislation on child labor still does not adequately define what constitutes child labor, nor does it establish appropriate penalties and other punitive measures to deter violations.

According to a survey conducted by the National Institute of Statistics, 1,665,934 children (49 percent) between the ages of 5 and 14 were working in Cambodia in 2001. Domestic work (chores) in the child's household was included in this survey. In 1999, the National Institute of Statistics estimated that 313,811 children (9.8 percent) aged 5 to 13 worked. During that year, approximately 65,000 children in this age group were thought to work over 25 hours a week and did not attend school. In 2000, the ILO estimated that 23.7 percent of children between the ages of 10 and 14 years old were working. More children work in rural areas than in urban areas, and beginning at around age 12, the percentage of working girls begins to outnumber boys. The vast majority of working children in Cambodia are engaged in the agriculture, forestry, and fishing sectors. Children also are exposed to hazardous conditions in brick factories and on commercial rubber farms; in construction and salt production; and as stonecutters, fish processors, porters, street vendors, and garbage pickers. Street children engage in begging, shoe polishing and other income-generating activities. Cambodian girls also work as domestic servants.

The Government of Cambodia has been a member of ILO-IPEC since 1996 and has adopted national action plans on children's issues. MOSALVY is responsible for monitoring and enforcing compliance with child labor laws. With assistance from the ILO, MOSALVY has established a child labor unit to investigate and suppress child labor, and as of 2000, questions on child labor have been incorporated into routine labor inspections. Additionally, the Government, with support from ILO-IPEC, conducts training on child labor for labor inspectors and awareness-raising programs through radio broadcasts. In 2001, USDOL funded an ILO-IPEC project in Cambodia to eliminate hazardous work in salt production, commercial rubber plantations and the fish and shrimp processing sector over a two and one-half year period.

## **Discrimination in Employment**

The Constitution guarantees equal rights for women, including equal pay for equal work, and the Labor Code strictly prohibits sexual harassment, requiring employers who have female employees to maintain good manners and public decency in the workplace. According to NGO reports, women make up 52 percent of the population, 60 percent of agricultural workers, 70 percent of the industrial work force, and 60 percent of service sector workers. Yet, women often are concentrated in low-paying jobs and largely are excluded from management positions. The ILO reports that sexual harassment in the industrial sector is rare, and it is not known to be a problem in other sectors of the economy.

The Labor Code provides for 90 days maternity leave and prohibits employers from firing women workers who take such leave. The women are entitled to receive half their salary while on maternity leave after one year of uninterrupted service at the company. Upon their return to work after childbirth, female employees are to be given only light work. Employers having at least 100 female employees are required to install nursing facilities and day care centers on site, and nursing mothers are entitled to 2 breaks of 30 minutes.

According to the Government, roughly 1 in 250 citizens is missing at least 1 limb. Such disabled persons face considerable societal discrimination, particularly in obtaining skilled employment.

## **Acceptable Conditions of Work**

Wages in Cambodia are set by market forces, except for the salaries of civil servants, which are set by the Government. Pursuant to the Labor Code, MOSALVY has the right to establish minimum wages for each sector of the economy based on recommendations by the LAC, and these minimum wages can vary regionally. MOSALVY formally exercised this authority for the first time in July 2000 when it approved a US\$ 45 monthly minimum wage for the garment and footwear sectors. Prior to that, minimum wages in the garment industry were enshrined in a memorandum of understanding between the Government and the GMAC. There is no minimum wage for any other industry.

Most garment factories observe the minimum wage, with garment workers typically earning between US\$ 45 and US\$ 100 per month. According to a 2001 survey, garment workers take home an average of US\$ 61 per month, factoring in overtime. However, prevailing monthly wages in the garment sector and many other professions are insufficient to provide a worker and family with a decent standard of living. Civil service salaries are also far below market levels, requiring government officials to secure outside sources of income. This results in absenteeism, corruption and conflicts of interest.

The Labor Code provides for a standard legal workweek of 48 hours, not to exceed 8 hours per day. The law stipulates time-and-one-half for overtime and double time if overtime occurs at night, on Sunday or on a holiday. Despite reminders from MOSALVY concerning hours of work, workers in many garment factories complain that overtime is excessive and/or involuntary or that they are required to work seven days per week. Workers also assert that some employers do not properly pay the premiums for overtime and night or holiday work, and there are reports that employers pay the overtime rate only for the salary component of workers' pay, leaving piece rates unchanged regardless of the number of hours worked. Outside the garment industry, regulations on working hours rarely are enforced.

The ILO's first monitoring report on working conditions in Cambodian garment factories identified underpaid wages and forced and excessive overtime as problem areas. In its June 2002 follow-up report, the ILO indicated that these problems continue to exist in a number of factories but acknowledged that there had been some improvement.

The Labor Code states that the workplace must have health and safety standards adequate to ensure workers' well-being. The Government has issued several instructions on workplace standards, including two new regulations in 2001 related to occupational safety and health. However, the Government enforces existing standards inconsistently, in part because it lacks staff, equipment and training. The number of labor inspectors outside of Phnom Penh is limited, with no more than 4 labor inspectors per province, but 1,287 labor inspections were conducted during the first 11 months of 2001.

Work-related injury and health problems are common. While most large garment factories producing for markets in developed countries meet international health and safety standards as conditions of their contracts with buyers, conditions in small-scale factories and cottage industries are generally poor. Penalties are specified in the Labor Code, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers who remove themselves from unsafe working conditions risk loss of employment.

## **Trafficking in Persons**

Cambodia is a source, destination, and transit country for trafficking in persons. Women and children are trafficked internationally, primarily to Thailand, for the purposes of commercial sexual exploitation or bonded labor. Most victims being trafficked into Cambodia come from Vietnam. There also is significant internal trafficking of women and children for exploitation in the country's sex industry, which is estimated to employ from 80,000 to 100,000 sex workers.

A survey of prostitution, conducted by a human rights NGO in 1995, indicated that 31 percent of female prostitutes were between the ages of 12 and 17. Half of the girls involved were sold into prostitution by their families and were forced to work as prostitutes. The ILO reports that many rural families allow their daughters to go to the city to jobs described as honest and well paid, which lead in reality to exploitative and/or slavery-like situations.

In December 2000, MOSALVY established a Sub-Committee on Combating Trafficking and Sexual Exploitation of Children and is currently working with the United Nations Children's Fund (UNICEF) and the International Organization for Migration (IOM) to return trafficking victims to their homes. The Government also created a "Child Safe Tourism Commission" that trains relevant officials and employers to prevent sexual exploitation. In addition, the MOI established a special anti-trafficking unit to train police on investigating sexual exploitation and victim rights and to facilitate court proceedings. The MOI worked with UNICEF, IOM, World Vision, the United Nations Cambodia Office of the High Commission for Human Rights, and Redd Barna to develop the training materials and the procedures for the police training, as well as to establish a hotline to report crimes.

UNICEF has established a Community-Based Child Protection Network that teaches children and community members about the hazards of trafficking and trains individuals to identify potential victims and take action to protect them. Villages in the network also establish "village social funds" that provide vulnerable children with funds to attend school. ILO-IPEC also is implementing an anti-trafficking project.

The Law on the Suppression of Kidnapping, Trafficking and Exploitation of Humans mandates a jail sentence of 15 to 20 years for any person convicted of trafficking persons under the age of 15. From January to July 2001, MOI's anti-trafficking unit investigated 116 cases, arrested 112 criminals and obtained 85 convictions.

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