

Geneva, 17 March 2016

H.E. Hun Sen
Prime Minister
Phnom Penh
Kingdom of Cambodia

Sent by email to Cabinet1b@camnet.com.kh; hengsour@yahoo.com

Trade Union Law in Cambodia

Honourable Prime Minister:

I am writing to you as General Secretary of [IndustriALL Global Union](http://www.industriall-union.org), representing more than fifty million workers in the mining, energy and manufacturing industries in 140 countries including Cambodia. Ten Cambodian garment workers' unions are part of our global family.

I want to take the occasion to thank you for the participation of Under-Secretary of State Mr Sat Samoth and General Director Mr Heng Sour in the Executive Committee meeting of IndustriALL Global Union, which took place in Phnom Penh on 9-10 December 2015. Mr Sour participated in a panel discussion on living wages in Cambodia and South East Asia, helping our 150 delegates to understand the complexity of the issue. Nevertheless, workers' demands for a living wage is easy to understand, and it is something we strongly support everywhere in Asia. Mr Sat Samoth expressed the commitment of your government to have an open and fruitful dialogue with the unions towards strengthening social dialogue and industrial relations, as well as to enact labour laws in full compliance with international labour standards.

Nevertheless, IndustriALL Global Union remains deeply concerned about the proposed text of Trade Union Law (TUL). The ITUC, IndustriALL and our Cambodian affiliates have provided to the government detailed comments, analysis and recommendations throughout the drafting process in order to bring the draft law into compliance with ILO Convention 87. As we explained in our letter to you on 18 May 2015, the draft law submitted to the National Assembly, while improved, still fell well short of our expectations and more importantly, of the requirements of the ILO norms. The joint report prepared by the CPP and CNRP in March 2016 does not nearly go far enough in addressing our concerns.

Though we have numerous concerns, our affiliates have identified the following as high priorities:

Article 3: The proposed TUL excludes various classes of workers by reference to Article 1. We would recommend that all workers, including civil servants, should be allowed to form or join a union.

Article 13: The draft law requires the unions' statutes to include provisions governing a strike ballot. We urge further consultation with trade unions to ensure that any threshold set is consistent with Convention 87.

Article 14: The draft law prohibits trade unions from entering into any legal arrangements prior to being registered. The ILO has made clear that the exercise of legitimate trade union activities should not be dependent upon registration. Unions who have filed for registration

should be able to enter into contracts, and to sue if necessary. The law should be clarified so that unions are able able to operate legally during the registration process.

Article 17: While a government may request that an audit is provided for its review, this proposed article goes well beyond that. For example, unions are required to report on all of their activities on an annual basis, which is not consistent with Convention 87. Further, the union should not have to provide details of its bank accounts, if it is already supplying an audit from a certified auditor. Also, unions are required to provide information on changes of bank accounts and membership numbers within 15 days. Even extending this to 30 days is unreasonable. It is likely that membership numbers will always be changing, requiring constant updates. Failure to do this would invalidate the registration, pursuant to the procedures in Articles 18 and 19. This is simply unacceptable.

Article 24: Under this article, “relevant parties” may request an audit of a union. The term “relevant party” is unclear and could allow nearly any individual or group to request such an audit, subjecting unions to harassment and the expense of numerous audits without any legal justification.

Article 29: The dissolution of a trade union should be dealt with according to the provisions of the union’s constitutions and bylaws, not by allowing “any party” or 50%+1 of the members to use the courts to do so. As to the grounds for dissolution, if elected leaders have acted inconsistently with the law, action should be taken against them and should not jeopardize the existence of the union. Also, the law punishes employer domination but does nothing to address the equally large if not bigger problem of government domination of trade unions. If the government is truly worried about the lack of independence of unions, it should also address government/party domination. If the government has evidence that (a) or (b) has been violated, then they should proceed to seek deregistration of the union, with such deregistration taking affect only after all appeals have been exhausted.

Penalties: Employer sanctions under the law are for too low to be dissuasive. For nearly all violations, the maximum fine is 5 million riels (US\$ 1,250). The majority of employers will simply pay the small fine as the cost of doing business, assuming the government attempts to collect it in the first place.

We believe that the legislation and enactment of the Trade Union Law is a good opportunity for the Cambodian government and employers to rebuild international and domestic confidence in the country’s industrial relations. To do so the law should be grounded on the core principles of freedom of association and collective bargaining. IndustriALL Global Union urges the Cambodian government to again consult meaningfully with trade unions and ensure that any proposed TUL is consistent with ILO Conventions 87 and 98 prior to any vote on its adoption. Any law which does not fully respect these rights will just meet with domestic and international opposition and attention.

Yours sincerely,



Jyrki Raina
General Secretary
IndustriALL Global Union