

Workshop on Provision of Joint Comments and Approval of Unions' Joint Proposal

Regarding this law, after the Ministry of Labor made a request for the union to make a joint proposal on the Draft Trade Union Law dated May 27, 2014 at Memo Restaurant, the Ministry of Labor and Vocational Training held a meeting to examine the contents and meaning of the modifications on May 27-28, 2014, with the participation of three parties: the Ministry of Labor and Vocational Training, the Unions, Employers Association and the International Labor Organization as technical assistants. In this tripartite meeting, the unions requested that the Ministry of Labor officially modify some points, but thereafter the unions held a meeting and found that this law overly restricted the rights of unions. Therefore, on July 14, 2014, the union representatives held a discussion on the provision of comments and approval of the unions' joint proposal with the aim of proposing it to the Ministry of Labor and Vocational Training for examination and inclusion in the second draft law, with the following results attached:

July 14, 2014

| No. | Chapter | Corrected Article | Draft Law | Unions' Request for Modification | Reason |
|-----|-----------|--------------------|--|--|---|
| 1 | Title | Name of law | Union law | Law on Vocational Relationship | <ul style="list-style-type: none"> - The Law on Vocational Relationship has sufficient meaning and focuses on union work, workers/employees and enterprises/factories. - This law covers unions, associations, employers, collective bargaining and the highest [level of] representativeness. |
| 2 | Chapter 1 | Article 2, Point 1 | protect right ... of Labour Law | Ensure protection of the rights, freedoms and legal interests of vocational relationship | <ul style="list-style-type: none"> - Omit the phrase Labour Law on the grounds that the Law on Vocational Relationship is clear regarding the purpose of the law and its meaning covers workers/ employees and also the union. - Adequate Living Wage is not included here on the grounds that a decent work must include an Adequate Living Wage. Adequate Living Wage shall be added in the definition of Article 4 to further clarify the meaning. |

| | | | | | |
|---|--------------|---------------------------------|---|--|---|
| 3 | | <i>Request to add Article 3</i> | <i>This law also applies to working staff and Maritime transportation</i> | <i>Request to include non-formal economy and civil servants.</i> | <ul style="list-style-type: none"> - <i>In order for non-formal economic groups and civil servants to have the right to any claim and negotiation according to the law.</i> - <i>If the Law on Vocational Relationships does not cover these groups, other laws may cover this.</i> - <i>Contrary to convention No. 87.</i> - <i>Working conditions and labor rights are low.</i> |
| 4 | | <i>Article 4</i> | <i>Definition</i> | <i>Request to explain the term "decent work".</i> | <ul style="list-style-type: none"> - <i>Because of wishing to know whether or not proper wage is included.</i> |
| 5 | Chapter 2 | <i>Article 9</i> | <i>Not to be contrary to public order, regulations and laws in force</i> | <i>Not to be contrary to the regulations and the laws in force</i> | <ul style="list-style-type: none"> - <i>Omit the term "public order" as this word may lead to arbitrary interpretation and has broad and ambiguous meaning.</i> |

| | | | | | |
|---|-----------|---|---|---|--|
| 6 | | <p>Article 10 - Point 1 - Point 2</p> <p>Article 10 Last paragraph</p> | <p>A local union shall be established by 20% of the total number of workers/employees of the said local enterprise. A union federation shall be formed by at least 15 local unions. A confederation or a confederation of union federations shall be formulated by 10 union federations.</p> <p>A union shall be entitled to receive ... only one per enterprise</p> | <p>A local union comprising of three persons and up can form a union while the federation and confederation shall be applied as it has been implemented so far.</p> <p>Request to remove this point</p> | <ul style="list-style-type: none"> - Based on the enforcement of the Law on Labor and enforcement of previous principles. - Because freedom to become a union member has restricted the rights of other workers when any worker is not satisfied with any union, the said worker cannot seek his or her preferred union. |
| 7 | Chapter 3 | Article 12 Point (E) | In any case as... basis | <u>The union requests to completely omit it</u> | <ul style="list-style-type: none"> - On the grounds of requesting the ministry to comply with the old principle of the Labour Law. - Reason as specified in Article 10 |

| | | | | | |
|----|-----------|--|---|--|--|
| 8 | Chapter 3 | Article 12 Last paragraph | Request for explanation of this paragraph | ...Filing or ...new registration? | - Request for elaboration. Should this point be newly registered? Should this be newly registered, request to omit this phrase. If only notice of change is provided about this leadership and the same registration is kept, it is not an obstacle. |
| 9 | | Article 12 Point "D" | | Request to omit Point (D) | - Because the bank account could not be opened because of having no registration and acknowledgement stamp from the ministry. That's why the bank would not open it for us. |
| 10 | | <u>Article 13</u> <u>Point 3</u> | | Request for completely omission | - Independence of union, interference and disturbance of the unions' work, Article 3, sub-clause 87 of ILO. |
| 11 | | <u>Article 13</u> <u>Points 7</u> <u>and 8</u> | | Request for complete omission | - Independence of union contrary to sub-clause 87 of ILO. - Leave it for the criminal law and other laws of Cambodia to take action. - Should the employer have any effect on the economy, the employer will be held responsible before the law. |
| 12 | | <u>Article 15</u> | Addition | Request to add clearer writing on procedures and ensure compliance with Prakas No. 021 on registration formalities | - As the implementation by the union such as notice has been rejected by the employer. - No transparency guaranteed if the ministry writes this task on its own; it is easy for the ministry to write without procedures being examined. - Whereas this law aims for a vocational relationship. Why are procedures for union registration not mentioned in this law? |

| | | | | | |
|----|--|--|--|--|---|
| 13 | | <u>Article 16</u> | | <i>Request for complete omission of registration delay</i> | - <i>Contrary to ILO convention Article 3, too much power is given to public authorities in restricting union freedom. Interference of the ministry on vocational work. No opportunity to make corrections to entitle the union to registration.</i> |
| 14 | | <u>Article 17</u> | | <i>Request for complete omission of this article</i> | - <i>Interference in internal affairs of the union such as fine in case of failure to abide by the principles and strict obligations of the union.</i> |
| 15 | | <u>Article 18</u> | | <i>Request for complete omission of this article</i> | - <i>Contrary to ILO convention 87, Article 4 and Article 7, Point 2</i> - <i>Contrary to the union's freedom</i> |
| 16 | | <u>Article 19</u> | | <i>Request for complete omission of this article</i> | - <i>Contrary to ILO convention 87, Article 4 and Article 7, Point 2</i> - <i>Contrary to the union's freedom</i> |
| 17 | | <u>Article 20</u> | | <i>Request for complete omission of this article</i> | - <i>Contrary to ILO convention 87, Article 4 and Article 7, Point 2</i> - <i>Contrary to the union's freedom</i> |
| 18 | | <u>Article 21, Points (C, D and E)</u> | <i>Request to omit and add phrases</i> | - <i>Request for complete omission of points (C and D).</i> - <i>Request to add (the above statement shall bear the thumbprint of the person concerned)</i> | - <i>Article 7, ILO convention 87, freedom of union foundation, convention on civic and political rights</i> - <i>The state does not guarantee facilitation in union formation</i> - <i>Pursuant to Prakas 21 of the Ministry of Labor implemented so far</i> |
| 19 | | <u>Article 22</u> | | <i>Complete omission of Point (C) in Paragraph 2</i> | - <i>Because it is complicated.</i> |

| | | | | | |
|----|--|----------------------------|---|--|--|
| 20 | | Article 23, point (A) and | | 1% contribution omitted by requiring the union to determine it freely in the statutes. | <ul style="list-style-type: none"> - Makes it difficult for the union to seek supporting members - Workers have poor livelihood - Law mentions vocational management and shall not talk about budget. - Unions' contribution should be minimized, then the number of members will increase along with the funds. |
| 21 | | Point (D), last paragraph | ...financial aid shall be reported to the ministry) | Request for omission | <ul style="list-style-type: none"> - Request to remove interference in union work. |
| 22 | | Article 28 | Union or employer association in the Kingdom of Cambodia | Request for complete omission | <ul style="list-style-type: none"> - According to convention 87, Article 8, Point 2 and guarantees the rights and freedom of the union. |
| 23 | | <u>Article 29, Point 1</u> | Request to omit (by 2/3 majority vote of members present in the meeting) | <ul style="list-style-type: none"> - By adding the word (as mentioned in the statutes). - Union or associationGeneral Assembly as specified in the statutes. | <ul style="list-style-type: none"> - On the grounds that imposing two-thirds members at a meeting is a reason for easy dissolution of the union. |
| | | Point 3 | ...to be dissolved by the labor court | <ul style="list-style-type: none"> - Request to omit point 3 to be dissolved by the labor court | |
| 24 | | <u>Article 30</u> | | <ul style="list-style-type: none"> - Request for complete omission of Article 30 | <ul style="list-style-type: none"> - Members shall be entitled to decide on the dissolution according to the statutes, on the grounds that it is the unions' interests and has been established by the union members. - Contrary to ILO Convention 87. |

| | | | | | |
|----|--|--|---|---|---|
| 25 | | <u>Article 33, Paragraph 3</u> | | <u>Should no agreement be reached, reelection is required. The ministry has the right to decide on this.</u> | - As it is convenient. |
| 26 | | <u>Article 34, point 7 requested to be omitted</u> | ...union, shop steward may enter into a provisional collective bargaining with the employer | (The union will not support a shop steward entering into a provisional collective bargaining with the employer.) | - It is not appropriate. |
| 27 | | <u>Article 36</u> | | Request to change the right to vote to at least 18 years of age | According to Article 21, Point (A) in this law. |
| 28 | | <u>Article 51</u> | | - Request that small unions be entitled to hold discussions with big unions with the greatest representativeness, but not be entitled to sign collective bargaining [agreements]. | - As it imposes restrictions on the rights of small unions. |
| 29 | | <u>Article 55, Point (D)</u> | Request for explanation of the word (cultural vocational service) and request for <u>change of this phrase to</u> | <u>There are meeting and education programs for their members as stipulated in this law.</u> | As it is not understandable |
| 30 | | <u>Article 60</u> | | <u>In the resolution of Individual Dispute and Collective Dispute</u> | As it helps reduce unions' difficulty. |

| | | | | | |
|----|--|--------------------------------|--|--|---|
| 31 | | <u>Article 64</u> | | <ul style="list-style-type: none"> - Request to include this article in the strike procedures. - Request to add another point (J), i.e. during the strike, the employer shall not transport goods or recruit more workers. | As the Law on Labor has already stipulated this. |
| 32 | | <u>Article 66</u> | | Request to completely omit Article 66, particularly points (F), (G) and (H) | Due to too much interference and restrictions on the unions' rights. |
| 33 | | <u>Article 68, Paragraph 1</u> | | <u>The employer must accept notice from the union.</u> | As the employer wishes to see no union in the company. |
| 34 | | <u>Article 77, Point 5</u> | | Request to remove the offense stated in Point 5. | <ul style="list-style-type: none"> - The union has only a two-year Mandate. Should it be kept for five years, no one will keep it well as it is not clear whether the person to resume the job will be responsible for this task or not. - No funds to rent an office for them in the company for voluntary work, no staff to do both personal and union work. - Should they be required to be responsible for too many documents, it may lead to a decrease in production in the enterprise. - The law has not required the employer to allow the union president to have enough time to fulfill union duties. |
| 35 | | <u>Article 78</u> | | Request for complete omission of this article | As it affects a union's sustainability. |

| | | | | |
|----|-------------------|--|--|--|
| 36 | <u>Article 79</u> | ...monetary fine between 1 million and 6 million | An employer who breaches articles 53, 63 and 64 shall be subject to monetary fine between 6 million and 10 million. | <p>- As articles 53, 63 and 64 give more details than the above statement of this article such as the terms dismissal or withdrawal because of discrimination or interference.</p> <p>- Add because there is only conviction and wrong implementation by the union, but the case of employer is not mentioned.</p> |
| 37 | <u>Article 80</u> | | The union requests complete omission, particularly of points 1, 2, 5 and 9. | Contrary to the convention on civic and political rights, guaranteed by the Constitution, Article 31 and Article |
| 38 | <u>Article 81</u> | | Completely omit Article 81 | <p>- Obvious intention to restrict small unions from being entitled to perform their roles. Small unions shall be entitled to negotiate collective bargaining.</p> <p>- Contrary to ILO convention</p> |
| 39 | <u>Article 82</u> | • | - Add Point 5 that (violating the principles of integrity and honesty) | - For the sake of negotiation and enforcement of collective bargaining. |
| 40 | <u>Article 84</u> | • | Request for complete omission of Article 84 | On the grounds that the stipulation of this article is not clear; in particular it may lead to broad interpretation and restriction on liaison of union work with the civil society at both national and international levels, aiming to promote the rights and freedom of the union. |
| 41 | <u>Article 87</u> | • | <p>...registration shall be reorganized according to this law six months after this law takes effect.</p> <p>- Request for complete omission of Article 87</p> | <p>- Contrary to ILO 87 Article 1, Article 8, Point 2, Article 11</p> <p>- The currently operating unions have already gained official recognition from the ministry's administration. This draft law shall adhere to non-proactive principles of the law, i.e. the registered union shall not make any review before renewing registration of those unions.</p> |

| | | | | | |
|----|--|-------------------|---|---|--|
| 42 | | <u>Article 88</u> | • | <ul style="list-style-type: none"> • <i>To be modified but when collective bargaining expires.</i> • <i>Omit the phrase (at the same time).</i> | <ul style="list-style-type: none"> • <i>Anything that is already valid shall be kept as valid until expiration of its mandate.</i> • <i>The parties have already reached an agreement and this collective bargaining has already been registered with the ministry's administration.</i> |
|----|--|-------------------|---|---|--|