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**LINKING TRADE WITH LABOUR RIGHTS:
THE ILO GARMENT SECTOR WORKING CONDITIONS
IMPROVEMENT PROJECT IN CAMBODIA**

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ABBREVIATIONS AND ACRONYMS

ATC	Agreement on Textiles and Clothing
CAFTA	U.S.-Central America Free Trade Agreement
CDRI	Cambodia Development Resource Institute
CITA	Committee for the Implementation of Trade Agreements
CLEC	Community Legal Education Center
CPP	Cambodian People's Party
EU	European Union
FUNCINPEC	Front National pour un Cambodge Independent, Neutre, Pacifique et Cooperatif
GMAC	Garment Manufacturers Association of Cambodia
ILO	International Labour Organization
MFA	Multifiber Arrangement
MFN	Most Favoured Nation Status
MOSALVY	Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation
PAC	Project Advisory Committee
WRC	Worker Rights Consortium
WTO	World Trade Organization

INTRODUCTION

“We cast a shadow on something wherever we stand,
and it is no good moving from place to place to save things;
because the shadow always follows.

Choose a place where you won't do very much harm,
and stand in it for all you are worth, facing the sunshine”

E. M. Forster,
A Room with a View

As of January 1, 2005, it will no longer be allowed under international trade rules for one country to impose import quotas on textiles and garments on another country. It is widely expected that the expiration of the 1974 Multifiber Arrangement will lead to a drastic reshuffle of garment production and trade patterns. Where a number of countries were previously guaranteed a share of the European and American markets for garments and textiles under quota specifications, China is slated to become the big winner and gobble up the lion's share of worldwide garment and textile production once quotas have disappeared.

The world over garment factory managers lie awake at night wondering whether they will receive any orders from buyers in the US and Europe come 2005 or whether their products are considered too expensive. From the moment they step in their offices, the Ministers of Finance of countries previously protected under the quota system pace up and down their offices despairing there might be large holes in their budgets for 2005 when sizable revenues from garment and textile exports possibly disappear over night. Meanwhile, an estimated

30 million workers in dozens of developing countries go to work each day largely oblivious that within a year their jobs may have disappeared.

Whereas most countries that rely largely on cheap labour rather than a competitive, integrated garment production infrastructure with reliable and sufficient backward linkages are only now starting to realise what the consequences of the end of the quota system might do to their garment industry and in some instances potentially also their very social and political order, there is one country without such an infrastructure where factory managers and government officials, though deeply worried, wake up at least with some hope that they will survive the expected onslaught. This country is, of all countries, tiny Cambodia. Recovering from the brutal regime of the Khmer Rouge in the late 70's under which one-third of its population perished, and having been able to establish a semblance of peace and democracy only since 1993, a small but very important garment sector of approximately 200 factories employing about 230,000 workers is literally keeping the country afloat with hope. Responsible for about 95 per cent of total export revenues and 4 per cent of formal employment in a country where about 77 per cent of the workforce is believed to work in agriculture and the informal sector, Cambodia is hoping that its efforts to improve working conditions in the garment sector will give it a niche that will attract enough buyers to allow its garment sector to survive a non-quota world.

On January 20, 1999, the US and Cambodia signed a groundbreaking Trade Agreement. The Agreement sets an export quota for garments from Cambodia to the United States, while seeking to improve working conditions and respect for basic workers' rights in Cambodia's garment sector by promoting compliance with - and effective enforcement of - Cambodia's Labour Code as well as internationally recognised core labour standards. The 3-year

agreement, extended for another 3 years and amended in 2001, offers a possible 18 per cent annual increase in Cambodia's export entitlements to the United States provided the Government of Cambodia supports the implementation of a programme to improve working conditions. Following the signing of the Agreement, the Governments of Cambodia and the United States requested the International Labour organisation (ILO) to prepare a project proposal to support the implementation of the article of the Trade Agreement concerned with the improvement of working conditions. Subsequently, a technical cooperation project was agreed upon in May 2000 and started its operations in January 2001.

A unique feature of the ILO Garment Sector Working Conditions Improvement Project is its monitoring component. Through a system of regular factory visits ILO monitors assess to what extent the working conditions situations in garment factories in Cambodia are in line with Cambodian law and make suggestions to factories as to where improvements can be made. The findings are published in quarterly reports which, following a certain cycle, include factory names, and are made widely available through placement on the ILO website. In the 8 reports published at the time of writing the ILO has reported that, while problems exist, improvements are being made in Cambodia's garment factories.

The ILO monitoring system is widely considered to be highly innovative and some considered replication when negotiations were ongoing concerning the US-Vietnam Free Trade Agreement and partial replication is currently being considered by some quarters within the framework of the Central America – US Free Trade Agreement.

The current thesis analyses the evolvement of a certain set of international labour standards in parallel with debates concerning the need for linking trade benefits with the adherence to certain labour standards and places the US-Cambodia Trade Agreement within the

context of the relationship between the international trade system and international labour standards. It subsequently analyses the functioning of the ILO Garment Sector Project as a vehicle through which the link between trade and labour as laid down in the US-Cambodia Trade Agreement has been implemented in practice. Finally, it attempts to identify lessons to be learned from the ILO Garment Sector Project in Cambodia, and other ILO projects in Cambodia, which could form the basis for any labour standards' monitoring system regardless where it is being implemented.

1. THE ILO AND INTERNATIONAL LABOUR STANDARDS

The ILO and Standard-Setting

The preamble of the Constitution of the International Labour Organization (ILO) begins with the statement that 'universal and lasting peace can be established only if it is based upon social justice'. Established in 1919, it was, and still is, the ILO's mandate to ensure that, simply put, workers share in the wealth that they help generate. Some of the arguments used some 85 years ago for the establishment of the ILO, still ring surprisingly valid in today's globalised world. The Preamble to the Constitution of the ILO not only sets out a humanitarian argument by pointing out the necessity of improving the situation of the working masses, it also sets out an economic argument, stating that international regulation of labour issues would ensure a level playing field so that no country would be at an economic, comparative disadvantage for having in place social policies and legislation.

The mandate of the ILO was updated through the 1944 Declaration of Philadelphia, which was incorporated into the ILO Constitution. The most important contribution of the Declaration was that it "expanded the field of action of the ILO, based on the relationship between labour and social, economic and financial problems".¹ It stated that "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity".²

Within the United Nations system dominated by states, the ILO has a unique tripartite structure under which workers and employers

¹ Hector G. Bartolomei de la Cruz, Geraldo von Potobsky, Lee Swepston, *The International Labor Organization; The International Standards System and Basic Human Rights*, (Westview Press, Boulder, 1996), p. 5.

² Article II (a) of the Declaration of Philadelphia.

organisations participate on equal footing with governments in the work of the organisation, including the development of standards. In 1946 the ILO became the first specialised agency of the United Nations, having survived the League of Nations.

Having been created to develop international labour standards and to ensure their transformation into national law and practice, the ILO spent the first forty years of its existence almost entirely to this task. During the first two years of its existence nine Conventions and ten Recommendations were adopted. In 1939 this number had grown to 67 Conventions and 66 recommendations. By the end of June 2003, the ILO had developed and adopted 185 Conventions and 194 Recommendations. Whereas initially standards were mostly developed in the area of working conditions; the first Convention dealt with working hours, after the Second World War, standard-setting initiatives focused on more general, but very important, human rights issues such as freedom of association.³

ILO Conventions

Whereas ILO standards can take many different forms, including resolutions, declarations and codes of conduct, the most common take the form of Conventions and Recommendations. ILO Conventions are international treaties and have to be ratified by an ILO member State in order for this state to become legally bound by the provisions of the Convention. Recommendations are non-binding instruments, which often accompany a Convention, setting out guidelines to assist states in developing and implementing national policy. Although the ILO's constitution requires that international labour standards are set with "due regard to those countries in which climatic conditions, the imperfect development of industrial organisation, or other specific

³ ILO, The ILO; What it is and what it does, pp. 4 and 5. ILO website, ILO Mandate at <http://www.ilo.org/public/english/about/mandate.htm>

circumstance make the industrial conditions substantially difficult", its overall mandate is to frame Conventions and Recommendations of "general application".⁴ In other words, standards should be flexible enough to allow each member State to implement them yet general enough to ensure that the same standard is applied in each member State; i.e. universality through flexibility. The ultimate aim being that adopted standards can be applied, are viable, in law and practice.

ILO Conventions and Recommendations are developed and adopted through what is called a "double discussion" process; a discussion of the particular subject identified for possible standard-setting subject in two subsequent sessions of the annual International Labour Conference, the tripartite policy formulation body of the ILO comprising two government and one worker and one employer representative from all ILO member States. The process is designed to ensure that international labour standards are thoroughly discussed and eventually agreed upon by at least two-thirds of votes cast by delegates of the International Labour Conference. Once adopted and, in the case of Conventions, ratified by member States, the application in law and practice of Conventions and Recommendations by member States is supervised through a system of regular, periodic reporting and complaints procedures.⁵

The Fundamental Human Rights Conventions of the ILO

Although it can be considered a natural progression of sorts, "[i]t is only very recently that the ILO has found it necessary to adopt and official position designating some Conventions as those covering 'fundamental human rights'".⁶ A natural progression because there has

⁴ ILO Constitution, Article 19.

⁵ For a full and detailed description of the standard-setting and supervisory procedures of the ILO see Hector G. Bartolomei de la Cruz, pp. 19 - 113.

⁶ Hector G. Bartolomei de la Cruz, p. 129.

been much cross-fertilisation between United Nations standards and ILO Conventions and Recommendations covering the same subject.

When comparing the Universal Declaration of Human Rights and especially the International Covenant on Economic, Social and Cultural Rights with relevant ILO standards one quickly concludes there is great overlap. When the Covenant was adopted in 1966, the ILO had already adopted all but two (the Minimum Age Convention, 1973 (No. 38) and the Worst Forms of Child Labour Convention, 1999 (No. 182)) of the Conventions that are now classified as fundamental ILO Conventions. When comparing Articles 6-10 and 13 of the Covenant with ILO Conventions covering the same subjects, it is very clear that they are largely summaries of ILO standards that were already in existence. The clearest example of the relationship between the Covenant and ILO Conventions can be found in Article 8 of the Covenant on freedom of association. Some of the phrases in this article are taken directly from the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98). For example, whereas Article 8(1)(a) stipulates that state parties undertake to “ensure the right of everyone to form trade unions and join the trade union of his choice, *subject only to the rules of the organization concerned* ...”, Article 2 of ILO Convention No. 87 guarantees that “workers and employers, without distinction whatsoever, shall have the right to establish and, *subject only to the rules of the organization concerned*, to join organizations of their own choosing without previous authorization” (emphasis added). In addition, a clear recognition of the need for consistency can be found in Article 8(3) which stipulates that Article 8 of the Covenant does not authorise states that have ratified ILO Convention No. 87 “to take legislative measures which

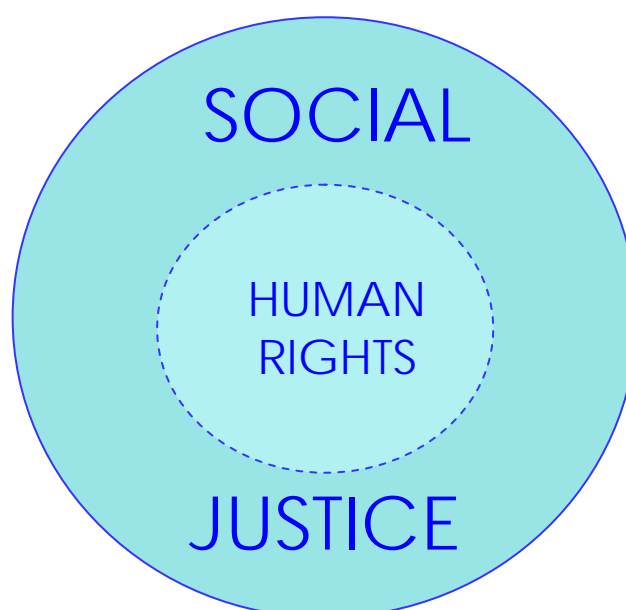
could prejudice, or apply the law in such a manner as would prejudice, the guarantee provided for in the Convention".⁷

As indicated above, the ILO's mandate is framed around the concept of "social justice" and the term "human rights" is not mentioned in the 1919 Constitution of the ILO nor in the 1944 Declaration of Philadelphia. However, Article II of the Declaration of Philadelphia places the principal right of all human beings to pursue both their material well-being and spiritual development within a framework of broad principles of human rights (non-discrimination, freedom, dignity, etc.). The Declaration further stipulates in its Article III how the ILO envisages working towards the realisation of this objective. It mentions, inter alia, measures to be taken in the areas of training, labour migration, conditions of work, collective bargaining, social security and occupational safety and health. Taken together, one can conclude "that the concept of social justice encompasses certain human rights but goes beyond these rights in terms of detail and application".⁸ (See Figure 1).

⁷ This section is taken almost verbatim from Lejo Sibbel, ILO Conventions and the ICESCR: One Goal, Two Systems, p. 53-54, in Dialogue + Cooperation, Occasional papers, Southeast Asia/Europe, Volume 1/2001, (Friedrich Ebert Stiftung, Singapore, 2001), pp.51 – 66. See also, L. Swepston, The Universal Declaration of Human Rights and ILO Standards: A comparative analysis on the occasion of the 50th anniversary of the Declaration's adoption, (Geneva, International Labour Office, 1998)

⁸ Lejo Sibbel, ILO Conventions and the ICESCR: One Goal, Two Systems, p. 53-54, in Dialogue + Cooperation, Occasional papers, Southeast Asia/Europe, Volume 1/2001, (Friedrich Ebert Stiftung, Singapore, 2001), p. 52.

Figure 1: The Concept of Social Justice.



In an effort to underline the importance of certain ILO Conventions and to streamline its supervisory processes, the Governing Body of the ILO, which is its tripartite executive committee consisting of 28 government members and 14 worker and 14 employer members and is responsible for, inter alia, programme and budget formulation, identified different classifications and subject categories for ILO Conventions. There are twelve different subject categories, namely: i) basic human rights, ii) employment, iii) social policy, iv) labour administration, v) industrial relations, vi) conditions of work, vii) social security, viii) employment of women, ix) employment of children and young persons, x) migrant workers, xi) indigenous and tribal peoples, and xii) other special categories (i.e. seafarers, nursing personnel, hotel personnel, plantation workers, older workers, etc.). This subject categorisation is of a technical nature and has no policy implications. The classification of standards, however, does have important policy implications. Linked to the classification of standards is a variance in reporting obligations for member States that have ratified the relevant

Conventions. The Governing Body decided to require regular, periodic reports from governments every five years on most ratified Conventions but once every other year for Conventions classified as Priority and Fundamental Conventions.

In order to highlight the essential importance of labour institutions and policy formulation in the areas covered by the relevant Conventions, the Governing Body classified 4 Conventions as Priority Conventions, namely:

1. The Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
2. The Labour Inspection Convention, 1947 (No. 81)
3. The Labour Inspection (Agriculture) Convention, 1969 (No. 129)
4. The Employment Policy Convention, 1964 (No. 122)

Considered even more important though are the eight Conventions classified as Fundamental Conventions. The rights contained in these Conventions are considered to be a precondition for all other rights in that their protection and application provide for the necessary minimum conditions, regardless of the level of development of individual member States, which need to be in place for human beings to be able to strive freely for the improvement of conditions of work. The eight Conventions, which fall into four subject areas, are⁹:

Freedom of Association

1. Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)

⁹ It should be noted here that at the time the classification of standards was undertaken the Worst Forms of Child Labour Convention, 1999 (No. 182) had not been adopted yet. This Convention was later added to the classified list.

2. Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

The abolition of forced labour

3. Forced Labour Convention, 1930 (No. 29)
4. Abolition of Forced Labour Convention, 1957 (no. 105)

Equality (non-discrimination)

5. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
6. Equal Remuneration Convention, 1951 (No. 100)

The elimination of child labour

7. Minimum Age Convention, 1973 (No. 38)
8. Worst Forms of Child Labour Convention, 1999 (No. 182)

Regardless of their classification as Fundamental Conventions though, the basic premise that Conventions are only legally binding upon those member States that have ratified them remained and as of April 8, 2004 14 member States had ratified 6 fundamental Conventions, 31 had ratified 7 fundamental Conventions and only 102 of the 175 member States of the ILO had ratified all 8 Fundamental Human Rights Conventions, a far cry from universal ratification, let alone application, of the rights enshrined in these Conventions.¹⁰

The ILO's designation of certain Conventions as fundamental can be directly traced back to discussions concerning the relationship between labour rights and international trade. In the following chapter, it is analysed how this debate changed the status of the Fundamental Human Rights Conventions of the ILO. In subsequent chapters the implementation of labour standards is analysed as linked with trade

¹⁰ ILO website, <http://webfusion.ilo.org/public/db/standards/normes/appl/appl-ratif8conv.cfm?Lang=EN>

benefits through the workings of the Garment Sector Project in Cambodia.

2. THE ILO vs. THE WTO: LINKING TRADE WITH LABOUR RIGHTS.

The Social Clause

Discussions concerning the establishment of a formal/legal link between international trade and labour are not new. Against a backdrop of growing concerns over indications that large segments of the world's population were either unable to share in the potential benefits of globalisation or were adversely affected by it, the international community increasingly felt it was necessary to underpin the forces of globalisation with a set of social ground rules. The first tangible expression in recent times of this sentiment can be found in paragraph 54b of the Programme of Action adopted by the 1995 Copenhagen Social Summit. It states that Governments should enhance the quality of work and employment by:

“[s]afeguarding and promoting respect for basic workers' rights, including the prohibition of forced labour and child labour, freedom of association and the right to organize and bargain collectively, equal remuneration for men and women for work of equal value, and non- discrimination in employment, fully implementing the conventions of the International Labour Organization (ILO) in the case of States parties to those conventions, and taking into account the principles embodied in those conventions in the case of those countries that are not States parties to

thus achieve truly sustained economic growth and sustainable development".¹¹

The recognition by the Social Summit that the Fundamental Conventions of the ILO constitute a set of minimum rules which every state, regardless of whether or not they have ratified the relevant Conventions, should respect to minimise the possible negative consequences of globalisation clearly indicates the importance the international community attached to these Conventions. The question remained though if and how these core standards should be directly linked to the growing international free trade system. To this end, simultaneous discussions were taking place in the ILO and the World Trade Organization (WTO) concerning the possible inclusion of a legally binding "social clause" into the trade agreements and structures of the WTO.

The argument for linking access to trade to the protection of labour rights is based mainly on the argument that this is the best way to guarantee progressive social development. The arguments against such a link centre around the argument that labour provisions hamper the free functioning of market forces and therefore raise prices and reduce the range of imported goods available and that requiring developing countries to adopt "western" labour standards is simply a protectionist ploy to prevent developing countries from making full use of their comparative advantages, which most see as lying in the availability of an abundant and cheap labour force.

The discussion in the WTO concerning the possible insertion of a social clause in its trade framework was decided upon during the 1996 Ministerial Conference. In the Conference's final declaration the Ministers stated that:

¹¹ World Summit for Social development, Paragraph 54b, Programme of Action of the World Summit for Social Development, <http://www.un.org/esa/socdev/wssd/agreements/poach3.htm>

“[w]e renew our commitment to the observance of internationally recognised core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalisation contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question” .¹²

Thus, it was left up to the ILO to come up with an instrument or programme of some sort to further deal with the question of the link between labour rights and international trade.

The 1998 ILO Declaration on Fundamental Principles and Rights at Work

As described above, the WTO rejected the idea of inserting a social clause into the WTO trade framework and left the initiative with the ILO to further deal with the issue of the universal application of fundamental labour standards. Perhaps fitting, since it was the ILO that may well have been the first international organisation to officially proclaim that “the failure of any nation to adopt humane conditions of

¹² WTO, Paragraph 4, Singapore Ministerial Declaration, http://www.wto.org/english/thewto_e/minist_e/min96_e/wtodec_e.htm

labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries".¹³

Following the affirmation of the importance of the Fundamental ILO Conventions at the Social Summit, the ILO promptly reacted with a "universal ratification campaign". The campaign consisted of a personal letter from the Director-General of the ILO inviting Governments every year to consider ratifying fundamental ILO Conventions not yet ratified. Though successful in securing 429 new ratifications by 155 different member States¹⁴, universal ratification remains a distant goal with, as indicated before, only 102 Member States having ratified all 8 Fundamental Conventions. This leaves open the question of the ILO's role when member States have not ratified Fundamental ILO Conventions.

In his 1997 report to the International Labour Conference, the Director General provided several possible avenues to address the gap between the need for universal recognition of workers' fundamental rights as a condition for social progress in a globalised world and the lack of universal ratification of the Fundamental ILO Conventions covering these rights.¹⁵ One of the questions he raised was "whether, even in the absence of ratification of the relevant Conventions, member States, by virtue of their acceptance of the ILO Constitution, and the general objectives and principles of the ILO, were not bound to a minimum of obligations with respect to fundamental rights".¹⁶ This idea was picked up and subsequently debated during intense preparatory consultations as well as during a substantial and heated debate at the 1998 International Labour Conference.¹⁷ As a result, on 18 June 1998, the ILO adopted the Declaration on Fundamental

¹³ Preamble of the ILO Constitution.

¹⁴ ILO Doc. GB.288/LILS/5, November 2003 session of the Governing Body

¹⁵ ILO, Report of the Director-General, The ILO, standard-setting and globalization, International Labour Conference, section B, 85th session, 1997.

¹⁶ Ibidem, section A.

¹⁷ ILO, Report of the Committee on the Declaration of Principles, Provisional Records, International Labour Conference, 86th Session, 1998.

principles and Rights at Work with an overwhelming majority but a substantial number of abstentions.¹⁸

The Declaration stipulates that:

“ all Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the organization, to respect, promote and realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.”¹⁹

A promotional follow-up mechanism of regular, periodic reporting is annexed to the Declaration. Its proclaimed aim is to “ allow the identification of areas in which the assistance of the Organization through its technical cooperation activities may prove useful to its Members to help them implement these fundamental principles and rights”.²⁰ Thus, the Declaration is promotional in character and not accompanied by an enforcement mechanism.

So, while turf wars between the WTO and the ILO concerning a social clause appear to have been settled, this should perhaps be seen

¹⁸ The Declaration was adopted by 273 votes in favour and none against but with 43 abstentions.

¹⁹ ILO, ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, Paragraph 2, International Labour Conference, 86th session, 1988.

²⁰ Ibidem, Paragraph 2 of the Annex.

more as “an agreement to disagree” between its members States whereby those in favour of insertion of a social clause within the WTO framework realised they would not be successful and settled for what was attainable at the time, i.e. an instrument that does not expressly link trade with labour standards and does not have an enforcement mechanism but keeps the issue and therefore the debate alive.

Illustrative in this regard is paragraph 5 of the ILO Declaration, which:

“[s]tresses that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up”.

However, what has happened since, for instance at the WTO’s Ministerial Conference in Seattle in 1999, indicates that the idea of linking trade with social safeguards has not disappeared. The calls for insertion of a social clause in the WTO framework are being voiced just as loud and frequent as ever.

But what did not happen on the international level, did take place on a bilateral level. In 1999, the U.S. and Cambodia signed a bilateral trade agreement on textiles that expressly links access to increased trade to improvements in working conditions.²¹ In the following chapters we will take a closer look at how linking trade with labour works in practice by analysing the garment sector in Cambodia,

²¹ Agreement Relating to Trade in Cotton, Wool, Man-made Fiber, Non-Cotton Vegetable Fiber and Silk Blend Textiles and Textile Products Between the Government of the United States of America and the Royal Government of Cambodia, at <http://web.ita.doc.gov/otexa/>

the workings of the bilateral textile agreement and the efforts of the ILO to improve working conditions and industrial relations in Cambodia.

3. THE GARMENT SECTOR IN CAMBODIA

Cambodia's Position in World Trade in Textiles and Clothing

The trade in textiles and clothing represents 5.7 per cent of world exports. It has increased by more than 60 times from less than US\$ 6 billion in 1962 to US\$ 342 billion in 2001 in the past four decades. Over the years, a shift in exports in textiles and clothing has taken place away from industrialised countries to developing countries due to the labour intensive nature of textile, but especially clothing production, whereby developing countries with their abundance of cheap labour have a comparative advantage. Currently, developing countries account for 50 per cent of world exports in textile and 70 per cent in clothing. For many developing countries export earnings from textiles and clothing represents the bulk of their foreign exchange earnings. For some, it is the singular most important sector in the country representing more than half, and sometimes even more than two-thirds, of their total export earnings ²² (see table below).

Table 1: Trade in Textiles and Clothing as a Percentage of Total Export Earnings in 2000.

Country	Percentage of total export earnings		
	Textiles	Clothing	Textiles and clothing
Bangladesh	9	75	84
Pakistan	49	23	72
Mauritius	5	64	69
Sri Lanka	4	50	54
Nepal	32	21	53

²² European Union, Evolution of trade in textile and clothing trade world-wide - trade figures and structural data, Background paper for EU Textiles Conference, Brussels 5-6 May 2003, p. 1 and 8.

Tunisia	2	40	42
Turkey	14	25	39
Morocco	2	32	34
Madagascar	29	1	30
Haiti	2	28	30
India	14	14	28

Source: European Union, Evolution of trade in textile and clothing trade world-wide - trade figures and structural data, Background paper for EU Textiles Conference, Brussels 5-6 May 2003.

In 2003 in, what perhaps constitutes the most extreme example in this respect, an extra-ordinary 93 per cent of total export earnings in Cambodia came from exports in textiles and clothing.²³ This dependency of certain countries, including Cambodia, is compounded by the fact that exports are highly concentrated in some markets. In 2000, the EU and US markets accounted for 52 per cent of world imports of textiles and for 71 per cent of world clothing imports.²⁴

While some of the trade patterns in textiles and clothing can be traced back to free market forces, for instance the shift from production from industrialised countries to developing countries due to lower labour costs, some are due to international trade arrangements.

The only multilateral system in place governing international trade between 1947 and 1995 was the Generalized Agreement on Tariffs and Trade (GATT). Its main premise was non-discrimination between parties. It required all contracting parties to provide "most favoured nation" (MFN) status to one another, meaning that any preferential treatment given by one member state to another automatically had to be given to all other member states of the GATT.

²³ Flash Report on the Cambodian Economy, February 2004, Cambodia Development Resource Institute, (CDRI, Phnom Penh, 2004), p.4.

²⁴ European Union, Evolution of trade in textile and clothing trade world-wide - trade figures and structural data, Background paper for EU Textiles Conference, Brussels 5-6 May 2003. p. 1.

However, from 1974 to 1995, the Multifiber Arrangement (MFA) provided the rules and regulations for international trade in textiles and apparel. The MFA was a set of rules governing bilateral agreements under which limits could be set, i.e. quotas applied, on imports into countries whose domestic markets were facing extensive damage due to a rapid surge of imports from developing countries. In allowing importing countries to set different import levels for individual exporting countries, the MFA was a major departure from the basic GATT principle of non-discrimination. Under the MFA system, access to quota determined where textiles and clothing was produced rather than market forces, leading to fragmentation of production location amongst many countries. As a result, producers engaged in a phenomenon sometimes called "quota-hopping": sub-contracting or relocating to countries where quota was available.

When the WTO was established in 1995 it replaced the GATT and with it the MFA. On 1 January 1995, the WTO Agreement on Textiles and Clothing (ATC) replaced the MFA. The ATC sets out a transitional process aimed at bringing the trade in textiles and clothing back into the fold of the normal GATT/WTO principle of non-discrimination. As such, it stipulates that quotas on textiles and clothing will gradually have to be phased out and are no longer allowed amongst WTO members as of January 1, 2005.

The 1999 US-Cambodia Trade Agreement on textiles falls within the framework of the MFA. It sets quotas for imports of textiles and clothing into to the U.S. and provides Cambodia with guaranteed and preferential, though limited, access to the U.S. market. However, in 2003 Cambodia became a member of the WTO, which means that it falls within the framework of the ATC and quotas will no longer be available to it come 2005. Before taking an in-depth look into the workings of the Agreement and the ILO Garment Sector Project linked to it, it is first necessary to provide some background information on

Cambodia's political situation and its garment sector so as to provide the proper context.

Cambodia's Political Situation Since 1975.

Instability and violence characterise Cambodia's modern history. In April 1975, the Kingdom of Cambodia was overthrown by the communist forces of the Khmer Rouge, lead by Brother No. 1, Pol Pot. While King Sihanouk fled to China in exile, the Khmer Rouge established Democratic Kampuchea. With the aim of establishing a communist agrarian society, the Khmer Rouge pursued a number of radical and deadly policies to free the country of Western and imperialistic influences. Political and legal institutions were abolished, as was the state bureaucracy. Ties with the outside world were limited to socialist brother states like the Soviet Union and the People's Republic of China.²⁵

In only 4 years, an estimated 1.5 to 2 million out of a total population of approximately 7 million are thought to have perished through massive mismanagement of economic reform leading to hunger and disease, as well as through singular and mass executions and grueling conditions in labour camps. The urban and intellectual elite was specifically targeted leading to the virtual extermination of almost all teachers, doctors, lawyers, engineers and architects, the effects of which on the re-development of the country are felt today.²⁶ Wearing glasses or being able to speak a foreign language amounted to a death sentence.

The Khmer Rouge was ousted from power by a Vietnamese invasion in late 1978 which established the People's Republic of Kumpuchea headed by a young former Khmer Rouge officer named

²⁵ David Chandler, *A History of Cambodia* (Chiang Mai, 1998), p. 209, and Henry Kamm, *Cambodia: Report from a stricken land* (New York, 1998), p. 120.

²⁶ David Chandler, p. 209, and Henry Kamm, p. 134.

Hun Sen, who is still Prime Minister today. From 1979 on surviving Khmer Rouge factions, still headed by Pol Pot, as well as the “Front National pour un Cambodge Independent, Neutre, Pacifique et Cooperatif” (FUNCINPEC) under the leadership of Prince Norodom Ranariddh, the son of the ousted King Sihanouk, fought the Vietnamese occupation forces.²⁷ It was not until 1991 though that this civil war ended through the signing of the Paris Peace Agreement, establishing the “United Nations Transitional Authority in Cambodia” (UNTAC), which was responsible for supervising the withdrawal of Vietnamese forces and the organization of elections in 1993.²⁸

The 1993 election participation rate was more than 90 per cent and resulted in a narrow victory for Ranariddh’s FUNCINPEC. Hun Sen’s refusal to accept the election results claiming the elections had not been free and fair ended ultimately, after months of negotiation and military stand-off between Hun Sen’s Cambodian People’s Party (CPP) and FUNCINPEC, in a coalition government under the leadership of two Prime Ministers – Hun Sen and Ranariddh. A new Constitution, promulgated on September 21, 1993, established Cambodia as a constitutional monarchy seeing the return of King Sihanouk.²⁹

Relations between Hun Sen and Ranariddh went from bad to worse though and in July 1997 military forces loyal to Hun Sen ousted Ranariddh. The 1998 elections resulted in victory for the CPP, amidst the killing of numerous political activists and many opposition members who had fled the country only returned following a personal safety guarantee from Hun Sen. Even though international election observers declared the elections to be basically free and fair, opposition parties organised large demonstrations which were forcefully dispersed by security forces. Again it took months of negotiations between CPP and FUNCINPEC to form a coalition government, this time though with Hun

²⁷ David Chandler, p. 222, and Henry Kamm, p. 170.

²⁸ David Chandler, p. 238, and Henry Kamm, p. 201.

²⁹ David Chandler, p. 240, and Henry Kamm, p. 212.

Sen as sole Prime Minister while Ranariddh became the Speaker of Parliament.³⁰

The latest elections in Cambodia took place in July 2003 and again resulted in victory for the CPP. As of 7 April 2004 though, no new government had been formed since negotiations between the CPP and the Alliance of Democrats, a coalition between FUNCINPEC and the Sam Rainsy Party (a popular opposition party named after its leader), have been fruitless. Again the elections were marred by political killings.

Characteristics of Cambodia's Garment Sector

With a population of approximately 13 million, Cambodia is a largely rural and agricultural society within which the vast majority of workers are active in small family farms and approximately 40 per cent of all Cambodians live below the poverty line. With an estimated workforce of approximately 6 million, the ratio of workers engaged in industry, though growing, is small (see table below).

Table 2: Workforce Participation Rate by Sector 1994-2001.

Year	1994	1995	1996	1997	1998	1999	2000	2001
Agriculture	78.6	78.6	78.5	77.9	77.4	77.5	76.9	76.8
Industry	5.3	5.5	5.9	6.3	6.8	7	7.9	8
Services	15.9	15.8	15.5	15.2	15.2	15.2	15	15

Source: P. Borrmann, Die Auswirkung des Welthandels auf die Beschäftigungssituation von Frauen in Kambodscha, Diplomarbeit, Freie Universität Berlin, May 2003, P. 40.

Within the formal industrial sector it is the garment sector, which provides employment for about 50 per cent of all industrial workers (see table below). Of the estimated 230,000 workers in the garment sector at the beginning of 2004, an estimated 90 per cent were female.

³⁰ Henry Kamm, p. 230.

Table 3: Workforce Participation in the Garment Sector 1995-2001.

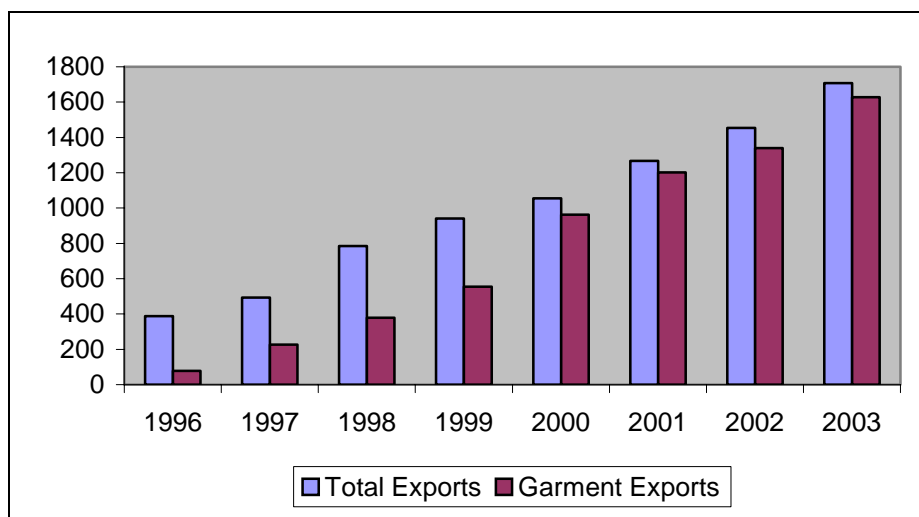
Year	1995	1996	1997	1998	1999	2000	2001
Absolute Numbers Employed (000's)	48	58	90	120	150	200	210
Percentage of the Entire Workforce	1.1%	1.3%	1.9%	2.5%	3.1%	4.0%	4.0%

Source: P. Bormann, Die Auswirkung des Welthandels auf die Beschäftigungssituation von Frauen in Kambodscha, Diplomarbeit, Freie Universität Berlin, May 2003, P. 40.

Though some, mostly state-owned, garment enterprises were in operation during the 60's and the beginning of the 70's, these were damaged or destroyed during Khmer Rouge rule. In the 1980's some factories were rebuilt but these catered only to the domestic market. It was not until the early 90's, with the end of the civil war, that an export oriented garment industry began to develop, spurred on by Cambodia's transformation from a centrally-planned economy to a market economy. It grew rapidly after 1996 when favourable trade agreements were signed with the European Union and the United States giving it preferential access.³¹ When in 1999 the US and Cambodia agreed on a trade deal establishing quota on a number of garments in return for an automatic annual growth rate of 6 per cent as well as a further possible increase if the country improved labour standards, this limitation on exports appeared not to have affected the growth of Cambodia's garment sector. On the contrary, growth in exports progressed steadily (see figures below).

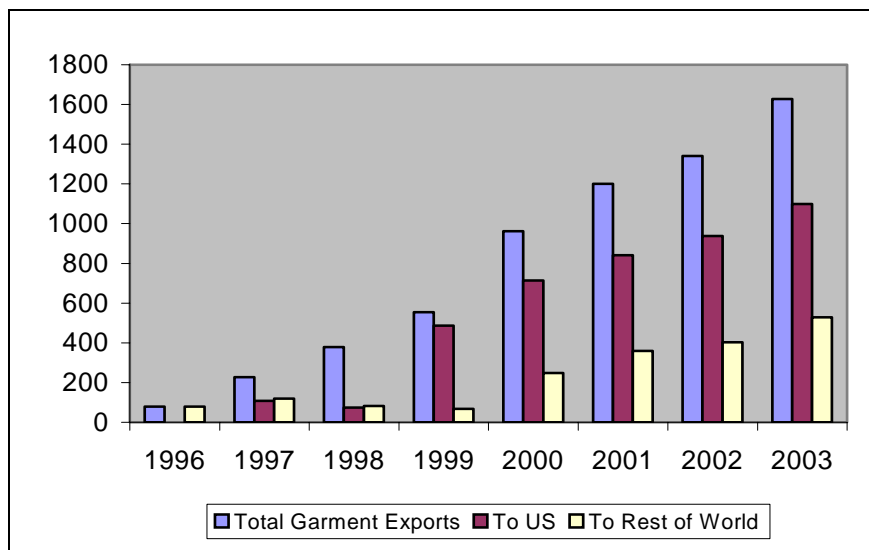
Figure 2: Cambodia's Garment Exports in Million US Dollars.

³¹ The Cambodian Garment Industry, in Cambodia Development Review, Volume 5, issue 3, July-September 2001(CDRI, Phnom Penh, 2001), p. 1-2.



Source: Compiled from data obtained from CDRI.

Figure 3: Destination of Garment Exports.



Source: Compiled from data obtained from CDRI.

The birth of the garment industry was paired with the birth of the labour movement in Cambodia, and as the number of factories increased, so did the number of unions. Whereas in 1997 there were 20 unions, by January 2002 the number had grown to 245, of which approximately 218 were in the garment sector.³² Two years later, at the end of 2003, there were 504 enterprise level unions, 15 union

³² U.S. Embassy in Cambodia, Labor Trends Report 2002, at <http://usembassy.state.gov/cambodia>.

federations, 1 confederation and 6 employers' associations.³³ The vast majority of unions can be found in the garment sector, with only fairly recent unionisation activities taking place in the tourism industry and only a few unions active in other industrial sectors like construction. Exact workforce unionisation rates remain somewhat of a mystery though since the total number of members claimed by the unions active in the garment sector is larger than the total number of workers in the sector.

As the figures indicate, the union movement in Cambodia is splintered. The union movement in the garment sector is further characterised by inter-union rivalry, varying degrees of lack of independence, lack of control over their members, and weak organisational structures. Having said that, a number of unions in the garment sector are slowly becoming more professional and better organised and in the end the most independent of the unions in Cambodia do constitute the largest, if not the only, real civil society movement in Cambodia.

What holds true for the unions partly holds true for the employers' association of the garment sector, the Garment Manufacturers Association of Cambodia (GMAC), as it also has little control over its members and suffers from weak organisational structures — though it has been moving towards greater professionalism lately.

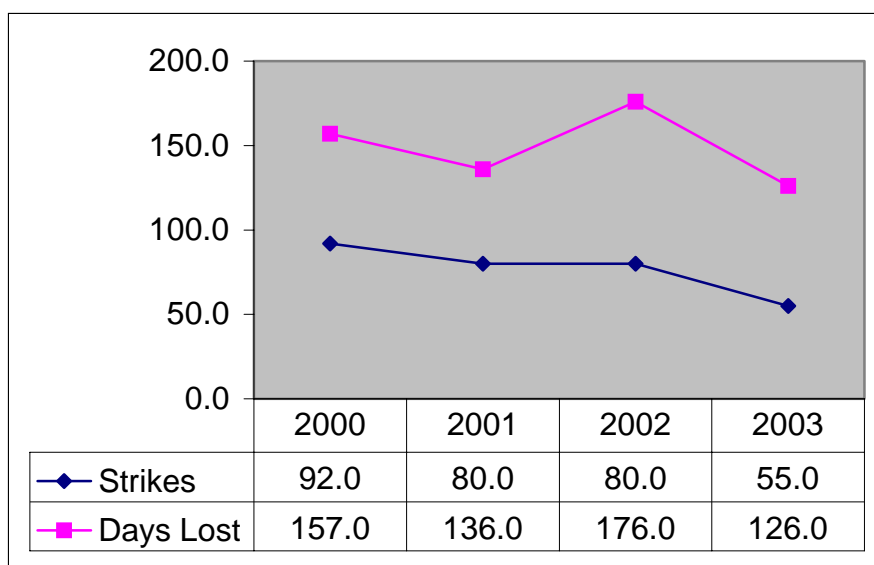
As a result of the weakness of the unions and the employers association, industrial relations in the garment sector are strained at best and often political in nature. On the one hand you have situations where workers who wish to set up a union are threatened with dismissal, sometimes elected union leaders are beaten up by hired thugs and strikes and worker demonstrations are occasionally heavy handedly dispersed by the police. In mid-2003, a worker and a policeman got killed during a demonstration amidst heightened pre-election tensions

³³ ILO, Annual Report 1 January – 31 December 2003, Worker's Education Assistance to Cambodian Trade Unions, not published, p. 4.

and in January 2004 the most prominent union leader of Cambodia, Mr. Chea Vichea, was assassinated in broad daylight leading to speculations as to the persons behind it ranging from the political (the leader had strong links with the opposition party), to the sectoral (a disgruntled hotel or factory owner or one of their "silent" business partners), to the speculative (the vice-president of the union had recently broken away from the union and set up his own union accusing the leader of bad leadership). On the other hand union leaders almost routinely demand a few hundred and sometimes thousands of dollars from factory managers to avoid the staging of a strike - or ending an ongoing one, managers are threatened with physical violence and factories are sometimes crippled by rival unions fighting out turf wars. Add to this the problems that exist in the garment sector with regard to general working conditions and it should not come as a surprise that disputes arise frequently.

When disputes do arise, regardless of whether they are collective or individual disputes, they frequently lead to strikes and work stoppages resulting in loss of production, profits and wages. As indicated previously, strikes also sometimes escalate into violence leading to loss of property and physical injuries. These events obviously have an effect on the investment and business operation climate for the garment sector. In 2002, the garment sector suffered 80 strikes resulting in an estimated 176.000 workdays lost in production (see figure below).

Figure 4: Strike Statistics for the Garment Industry (2000-2003).



Source: Garment Manufacturers Association of Cambodia (not published).

Though the above may paint a rather sullen picture, it should be set in the appropriate context. In general, unions can be set up freely in Cambodia and there are Constitutional and legal guarantees in place to this effect. As indicated earlier, the garment sector has by far the largest number of unions and most disputes that arise are solved, one way or another, through negotiation and compromise without resulting in strikes. In fact, as the figure above indicates, the number of strikes dropped in 2003. Also, in 2000, GMAC and the Government agreed on setting a minimum wage for the garment sector, following a series of more or less sector-wide strikes demanding an increase in pay. The agreement was subsequently “legislated” through Prakas (ministerial regulation) 017/00 of 18 July 2000 which sets the minimum wage at 45 US\$ per month for a 48 hour work-week, with a 5US\$ bonus to be earned for regular attendance during the month, as well as a monthly bonus of 2 US\$ after 1 year of service. According to figures from the CDRI, the average monthly salary of garment workers, including

payments for overtime, reached 66.97 US\$ in November 2002.³⁴ This is considerably higher than the average income in Cambodia and double the salary of the average civil servant, including teachers. In addition, progress is being made in improving working conditions in the garment sector and the industrial relations set-up in Cambodia, mainly through the efforts of different ILO projects, as will be discussed below.

³⁴ Cambodia Development Resource Institute, Cambodia Economic Flash Report – January 2003, (CDRI, Phnom Penh 2003), p. 15.

4. CAMBODIAN GARMENT SECTOR WORKING CONDITIONS IMPROVEMENT PROJECT

The Project Objectives

On 20 January 1999, the Governments of the Kingdom of Cambodia and the United States of America entered into a three-year Trade Agreement on Textile and Apparel. The agreement was amended and extended for another three-year period on 31 December 2001.³⁵ The Agreement sets export quota for garments from Cambodia to the United States, while seeking to improve working conditions and respect for basic workers' rights in Cambodia's garment sector by promoting compliance with - and effective enforcement of - Cambodia's Labour Code as well as internationally recognised core labour standards. The amended agreement offers a possible 18 per cent annual increase in Cambodia's export entitlements to the United States provided the Government of Cambodia supports:

"The implementation of a programme to improve working conditions in the textile and apparel sector, including internationally recognised core labour standards, through the application of Cambodian labour law"

(Article 10B, US-Cambodia Textile Agreement)

Under the Agreement, "The Government of the United States will make a determination by December 1 of each Agreement period, beginning on December 1, 1999, whether working conditions in the

³⁵ Memorandum of Understanding Between the Government of the United States of America and the Royal Government of Cambodia, at <http://web.ita.doc.gov/otexa/>

Cambodian textile and apparel sector substantially comply with such labour law and standards".³⁶

Following the signing of the Agreement, the Governments of Cambodia and the United States requested ILO technical assistance to prepare a project proposal to support the implementation of the article of the Trade Agreement concerned with the improvement of working conditions.³⁷ Following this request, the ILO consulted extensively with the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation (MOSALVY), the Garment Manufacturers Association in Cambodia (GMAC), the Cambodian trade union movement and the United States Government. As a result, a technical cooperation project with a budget of US\$ 1.4 million (USA 1 million, Cambodian Government and GMAC 200,000 each) over a period of three years was agreed upon in May 2000. The project commenced in January 2001. In November 2002 an additional US\$ 675,000 was made available by the US to strengthen and intensify Project activities. On 28 November 2003, the Cambodian Government, GMAC and the ILO signed a Memorandum of Understanding to extend the duration of the project for a further two years. The budget for the extension is 1,5 million (US 1 million, Cambodian Government 400,000 and GMAC 100,000)

The basic objective of the project is to improve working conditions in Cambodia's garment sector through:

³⁶ Article 10D, Agreement Relating to Trade in Cotton, Wool, Man-made Fiber, Non-Cotton Vegetable Fiber and Silk Blend Textiles and Textile Products Between the Government of the United States of America and the Royal Government of Cambodia, at <http://web.ita.doc.gov/otexa/>

³⁷ The description of the Project is based on information found in the eight „Synthesis Reports“ published by the Project as written by the author of this thesis in his capacity as Chief Technical Advisor of the Project as well as on knowledge obtained in this function.

- ◆ Establishing and operating an independent system to monitor working conditions in garment factories;
- ◆ Providing assistance in drafting new laws and regulations where necessary as a basis for improving working conditions and giving effect to the labour law;
- ◆ Increasing the awareness of employers and workers of core international labour standards and workers' and employers' rights under Cambodian labour law;
- ◆ Increasing the capacity of employers and workers and their respective organisations to improve working conditions in the garment sector through their own efforts;
- ◆ Building the capacity of government officials to ensure greater compliance with core labour standards and Cambodian labour laws.

The execution and implementation of the project is guided by a Project Advisory Committee (PAC), which comprises three representatives each from the Government of Cambodia, the GMAC and the Cambodian trade union movement. The PAC meets quarterly, or as otherwise necessary, to discuss progress in project implementation and advise on envisaged activities. The PAC has no direct responsibility for project execution or day-to-day implementation of the project, but is expected to provide guidance and advise on such matters as work plans, implementation of activities, communication with the parties involved, and coordination of project activities with relevant work undertaken by other entities. It is also expected to advise on the

operation of the monitoring and reporting system and contribute to the periodic evaluation of that system.

The Monitoring System

Who is monitored?

To be able to set up the monitoring system, enterprises in the textile and apparel sector have registered with the project. This registration is voluntary but has been “encouraged” by Prakas (Ministerial Regulation) 108 of 28 March 2001 issued by the Ministry of Commerce which indicates that only registered factories would be eligible to use allocated export quotas and/or buy export quotas through official bidding for the export of textiles to the USA. As of 7 April 2004, 213 garment factories have registered with the Project. This is estimated to be about 95 per cent of all garment factories in Cambodia since a small number of factories that do not export did not register with the project.

Registration consists of the signing of a Memorandum of Understanding (MOU) between the ILO and the participating factory. The MOU outlines the duties and responsibilities of both parties. Under the MOU the factory undertakes, *inter alia*, to provide full access to ILO monitors to factory premises, allow ILO monitors to interact freely with shop stewards, union representatives and factory workers, both inside and outside factory premises, and provide such access in case of both announced and unannounced monitoring visits. On its part, the ILO undertakes to ensure, *inter alia*, that monitoring visits are undertaken in a fair and objective manner, that monitoring visits will be undertaken in such a manner as to cause least disruption to factory operations, that basic information is kept confidential and that any allegation of

misconduct by any ILO monitor in the execution of his/her duties will be considered in good faith.

What issues are monitored?

The Trade Agreement indicates that the programme to improve working conditions should include “internationally recognised core labour standards”. It is assumed that by this is meant the Fundamental Conventions of the ILO. This does not mean, however, that garment factories in Cambodia are subject to monitoring visits under which the working conditions situation in factories is assessed against “imported” labour standards. The Project, having analysed the 1997 Labour Code of Cambodia, works on the basis of the assumption that the Cambodian Labour Code incorporates to a large extent the rights covered by the Fundamental Conventions of the ILO. This assumption can be made with relative certainty because the Code is based primarily on an ILO draft made available to the Government in 1995.³⁸ In addition to the Labour Code and its implementing regulations as promulgated by MOSALVY, the Project also takes into account laws and regulations promulgated by other Government entities.³⁹

In undertaking factory visits, monitors are guided by an extensive checklist prepared by the Project and reviewed and endorsed by the Project Advisory Committee. This checklist consists of 156 questions (excluding sub-questions) most of which relate to articles in the Labour Code and its implementing regulations. Where regulations are not available the ILO included requirements considered to be reasonable.

³⁸ Ninety-five percent of the Code is the same as the draft provided to the Government by the ILO according to comments made in 2001 by a senior ILO official of, what is now called, the ILO Infocus Programme on Social Dialogue, Labour Law and Labour Administration.

³⁹ For instance, the Anokret (Sub-Decree) No. 42 of 10 July 2000 on Air Pollution Control and Noise Disturbance of the Council of Ministers.

For instance, the Labour Code of Cambodia contains a general chapter on health and safety. Article 229 of the Code stipulates that all establishments must maintain the working conditions necessary for the health of the workers, while article 230 stipulates that all establishments must be set up to guarantee the safety of workers. Often though specific implementing regulations had not been developed yet, for instance in the areas of lighting and the provision of personal protective equipment, in which case inclusion of questions in these areas, while based on the general articles of the Labour Code, are based on considerations of what can reasonable be expected of employers. It is important to note in this respect that the PAC endorsed the checklist in its entirety, including the questions not expressly covered by Cambodian law. In other words, the parties most affected by the monitoring efforts of the ILO, notably the employers, agreed with its content.

Since it is based on the entire spectrum of issues covered by Cambodian labour law, the checklist is very extensive (see table below).

Table 4: Issues Covered by the Garment Sector Project Checklist.

1. Working conditions	(Q. 1 - 46)
◆ Internal regulations	(Q. 1)
◆ Employment contract	(Q. 2-3)
◆ Collective agreement	(Q. 4)
◆ Wages	(Q. 5-13)
◆ Return fare	(Q. 14)
◆ Hours of work	(Q. 15-19)
◆ Leave	(Q. 20-26)
◆ Maternity leave	(Q. 27-31)
◆ Breast-feeding	(Q. 32-33)
◆ Nursing room/day-care centre	(Q. 34-35)
◆ Sexual harassment	(Q. 36)
◆ Discrimination	(Q. 37-38)
◆ Forced labour	(Q. 39)
◆ Child labour	(Q. 40-46)
2. Safety and health	(Q. 47 - 136)
2.1 General	(Q. 47-74)
◆ Safety and health policy and management	(Q. 47-55)
◆ Accidents/illnesses	(Q. 56-61)
◆ Compensation for accidents/illnesses	(Q. 62)
◆ Emergency arrangements	(Q. 63-67)
◆ First aid	(Q. 68-69)
◆ Infirmary	(Q. 70-74)
2.2 Hazardous substances	(Q. 75-90)
◆ Storage	(Q. 75-83)
◆ Protective measures	(Q. 84-90)
2.3 Lighting	(Q. 91-97)
2.4 Noise	(Q. 98-100)
2.5 Machine safety	(Q. 101-107)
2.6 Ventilation and heat	(Q. 108-116)
2.7 Housekeeping	(Q. 117-122)
2.8 Welfare	(Q. 123-132)
◆ Drinking water	(Q. 123-124)
◆ Sanitation facilities	(Q. 124-130)
◆ Eating area	(Q. 131)
◆ Personal belongings	(Q. 132)
2.9 Seating	(Q. 133-136)
3. Labour relations	(Q. 137-156)
◆ Freedom to organise	(Q. 137-139)
◆ Anti-union discrimination	(Q. 140)
◆ Shop stewards	(Q. 147)
◆ Collective disputes	(Q. 148-149)
◆ Strikes/lock-outs	(Q. 150-155)
◆ Individual disputes	(Q. 156)

Source: Garment Sector Working Conditions Improvement Project.

As can be seen, the monitoring system covers anything from freedom of association and child labour to the sanitation facilities and hazardous substances, meaning that, when undertaking a factory visit, monitors will, inter alia, interview workers to find out if they are able to set up a union, analyse documents to verify the age of workers, observe whether toilets are clean enough and check whether hazardous substances are properly stored and labeled.

Who is monitoring?

The Project, with the advice of the Project Advisory Committee, has recruited a total of 13 monitors to undertake factory visits. When the initial group of 8 monitors was recruited when the project first started, the PAC indicated it wished to play a role in the recruitment process in order to ensure, although not expressed in so many words, that the group of monitors recruited would include and reflect the different emphasis by the different members of the PAC on background and qualifications of the monitors. The Project decided to establish a recruitment panel of four persons consisting of the Project manager (officially called the Chief Technical Advisor, i.e. CTA) and one representative each from each of the tripartite partners chosen by each group individually. Each of the four panelists went through the 300-odd applications received individually after which assessments were combined and discussed and a shortlist of candidates was presented to the PAC as a whole. The PAC subsequently reviewed and endorsed the shortlist and the ILO, satisfied that the recruitment process had been fair, merit-based and balanced, in turn recruited the successful candidates.

As it was, the initial group of monitors included several former labour inspectors, a former mid-level manager in a garment factory,

and several persons who had worked for UN-agencies and non-governmental organisations. What they had in common though is that they all had experience in monitoring. When the Project recruited additional monitors, the Permanent Chair-person of the PAC indicated informally that the establishment of a tripartite recruitment panel was not necessary. Subsequently, the ILO recruited an additional five monitors. As of 7 April 2004, of the 13 monitors recruited, 11 remain in their functions.

A weak point in the composition of the monitors initially was, and still is, though to a lesser extent, the fact that out of the initial group of eight monitors recruited only one was female. An estimated 90 per cent of the work force in the garment sector is female. It is generally believed that it is easier for female monitors than it is for male monitors to discuss issues such as sexual harassment with female workers. It was found that the criteria used placed an emphasis on formal education requirements, which was believed to hamper recruitment of females since they tend to have less access to schooling due to their traditional role in Cambodia's patriarchal society. When the second group of monitors was recruited criteria were adjusted and currently three out of the remaining eleven monitors are female.

Upon recruitment, the first group of monitors was provided with intensive training for three months, covering subjects such as Cambodian labour law and international labour standards, interviewing techniques, report writing, and also including a number of training visits by monitors to different types of enterprises. Training for the second group of monitors was less extensive in that they were sent to the factories earlier since they could learn "on the job" from the already experienced monitors. The training was undertaken by the CTA, the Project Programme Assistant, independent consultants and government officials.

How is the monitoring undertaken?

Monitors normally undertake enterprise visits in pairs. Each visit follows a similar procedure, which includes an initial meeting with management, a tour of the enterprise, observation of the working place, interviews with workers and their representatives both inside and outside the factory, collection of relevant documents (payroll, sample contracts, leave records, etc.) and an exit interview with management. After each monitoring visit, monitors analyse all the information gathered and prepare a report for the CTA containing their findings and suggestions for areas of improvement. The CTA checks the report to see that it has been completed in accordance with project procedures. Once approved by the CTA, the CTA and/or the Programme Assistant discusses the draft report with management in order to secure the agreement of management with the findings and suggestions in the report and gather additional information if necessary. This stage also includes an additional visit of the factory to verify further information received. The final report prepared after this meeting is sent to management with a request to sign and return it. At this point, management can indicate with which points they do not agree. Upon request from management, the project may offer assistance to factories in implementing the suggestions identified in the report.

After a certain lapse of time, which varies depending on workload and logistics, a follow-up visit is undertaken. Follow-up visits are also undertaken in pairs whereby, in principle, at least one of the monitors was part of the team that undertook the first visit. Follow-up visits focus on progress made in the implementation of the suggestions. In addition, monitors look into changes with regard to fundamental issues such as freedom of association and child labour as well as major

changes with regard to issues for which factories were found in compliance with the law after the first monitoring visit. Reports on follow-up visits are sent to management with a request to sign and return it. At this point, management again can indicate with which points they do not agree. They are also informed that they can contact the Project at all times to discuss the report or provide additional information if they so desire.

What happens with the findings?

Based on the reports prepared by the monitoring teams for each individual factory, the CTA prepares a synthesis report every four months that provides an overview of the operation of the monitoring system for the period under review⁴⁰. The reports cover a certain number of factories for which a monitoring visit was undertaken. The first time information on a group of factories is included in a report factory names are not included (see box 1). The second time information on the same group of factories is included, i.e. after a follow-up visit has been undertaken to assess in how far progress has been made in implementing suggestions made by the ILO, factory names are included (see box 2). The idea is that factories are given a certain grace period during which they can make improvements and prove they are of good will and after which they can basically no longer claim ignorance about any problems that may exist.

The Synthesis Reports are presented to the Project Advisory Committee, which discusses each synthesis report. Its comments, which take the form of joint statements are recorded and attached to the ILO report upon publication. The ILO report and the comments of the Project Advisory Committee are made available in both English and

⁴⁰ Initially the period for the publication of reports was every three months. Since it was found that this was logistically difficult this period was changed to every four months.

Khmer and freely distributed to interested parties, including the parties to the US-Cambodia Textile and Trade Agreement. The reports are also posted on the ILO website.⁴¹ The first report was published in November 2001, the second in April 2002, the third in June 2002, the fourth in September 2002, the fifth and sixth in June 2003, the seventh in October 2003, and the eighth in February 2004.

⁴¹ ILO, First-Eighth Synthesis Report on Working Conditions in Cambodia's Garment Sector, at <http://www.ilo.org/public/english/dialogue/ifpdial/publ/cambodia.htm>.

Box 1: Excerpt from the First Synthesis Report on Working Conditions in Cambodia's Garment Sector.

2.1.6 Hours of work

Law (Art. 137, 139, 144, 147, Prakas 90/98, 80/99, Notice 014/99):

The number of hours worked by workers of either sex cannot exceed eight hours per day, or 48 hours per week. Overtime can only be undertaken for exceptional and urgent jobs. Overtime must be undertaken voluntarily and workers should not be punished for refusing to work overtime. Overtime hours cannot exceed 2 hours per day. Night work has been set by MOSALVY practice as to be work undertaken between 2200 and 0500. Weekly time off shall last for a minimum of twenty-four consecutive hours. All workers shall be given in principle a day off on Sunday.

Practice:

In 26 factories, the official working hours amount to 8 hours. In 3 factories, a system is applied whereby they provide lunch to workers in return for a 9th hour of work. The Ministry of Labour allows this practice, as long as workers agree with this arrangement and the value of the lunch approximates the equivalent of one hour of over-time work. In one factory, normal working hours were 9 hours whereby workers indicated that one hour is not registered on their time card.

In 27 factories, over-time hours extend beyond the 2 hours allowed under the law or over-time work is not exceptional. While for 10 factories this appears to be occasional, for 17 factories it appears to be frequent/for several weeks or months in a row. In 5 factories, over-time hours occasionally extend beyond midnight.

Workers in 13 factories indicated that working over-time is not voluntarily undertaken or not always voluntarily undertaken.

During the discussion of the draft report, one factory presented an over-time sheet for workers to sign, which they would start using in the coming months.

All factories covered by this report have Sunday as their designated 24 hours off. In 25 factories, work was undertaken on Sunday, either occasionally (18 factories) or frequently/for several weeks/months in a row (7 factories). In 15 factories, workers indicated that working on a Sunday was undertaken voluntarily, while in 10 factories, workers indicated this was not voluntarily undertaken or not always voluntarily undertaken.

Box 2: Excerpt from the Third Synthesis Report on Working Conditions in Cambodia's Garment Sector.

2.1.1.4 Wages

Suggestion:

Management should ensure that the minimum wage notice is posted in the workplace.

Implemented: City New, Eternal Way, F.Y. Cambodia, Gladpeer, Luen Thai, P.Y.L. Cambodia, Quality Textile, Shelby, Trinunggal, United Faith, Winner.

Not implemented: Dajoo, Hang Fung, Oceanic, Phong Wan, San Lei Fung, Top Clothes, USA Fully Field, Yubin.

Suggestion:

Management should ensure that workers understand their wage calculations.

Implemented: Eternal Way, Cung Sing, F.Y. Cambodia, P.Y.L. Cambodia, USA Fully Field, United Faith, Yubin, Winner.

In process: Grace Sun.

The Main Findings

Analysis of the Synthesis Reports published so far provides a clear overview of the working conditions in Cambodia's garment sector. It should be underlined here that all registered factories have been reported on at least once so that a complete picture can indeed be distilled from the findings. In summary, the main findings are that:

- ◆ There is no evidence of forced labour;
- ◆ There is no evidence of child labour in that only exceptionally cases are found;
- ◆ There is some evidence of sexual discrimination, including sexual harassment;
- ◆ Non-correct payment of wages occurs frequently;

- ◆ Overtime work is not, or not always, undertaken voluntarily in a substantial number of factories;
- ◆ Overtime hours extend, either occasionally or frequently, beyond the legal limits in a substantial number of factories;
- ◆ Freedom of association, including anti-union discrimination, is a problem in some factories;
- ◆ Strikes are not organised in conformity with the legally required procedures;

Thus, when it comes to the issues covered by the Fundamental Conventions of the ILO Cambodia is doing well. There is no forced labour, some child labour but, according to the Synthesis Reports, this is always due to workers falsifying age-related records in order to get a job rather than a deliberate act on the part of the employer, who might be negligent though in verifying age-related documents, and the children working are treated the same as all other workers in terms of wages and working hours, and some sex-discrimination. The main problem in this regard is freedom of association where the reports indicate harassment and dismissal of union leaders/members, efforts to hamper the establishment of unions and occasional violence.

The main problems though are in the area of payment of wages and the frequency, duration and non-voluntary nature of overtime. With regard to the payment of wages the reports indicate that these problems relate not so much to irregularities with regard to the payment of minimum wages, with the exception of minimum wage payments to casual/short-term workers, but mostly relate to other payments, such as overtime, bonuses, leave entitlements, etc. The reports are straightforward when it comes to overtime. Workers are often forced to work overtime, and they work overtime too often and too long.

Progress Made in Improving Working Conditions

One of the features of the system is that it has a built-in system of assessing progress made through the follow-up visits undertaken. The progress made in improving working conditions by different groups of factories is contained in Synthesis reports nos. 3, 5, 6 and 8. The table below provides an overview of the number of suggestions made, numbers implemented and partly implemented and the percentages these represent of the total number of suggestions made for a group of 28 factories which have been subject to two follow-up visits, and for which the relevant findings were covered by three Synthesis Reports, namely numbers 1, 3 and 6. This group was chosen because it is the most thoroughly monitored group of factories so far. Progress for this group is more or less representative for all registered factories. After a first follow-up visit had been undertaken for these factories, the average rate of implementation of suggestions made stood at approximately 32.5 per cent. After the second follow up visit, the factories had made further improvements though at an average implementation rate of approximately 43.5 per cent (see table below). In comparison, for the 30 factories covered by the Fifth Synthesis Report, the average rate of implementation of suggestions made after the first follow-up visit stands at approximately 37 per cent, while for the 62 factories covered by the Eighth Synthesis Report, the average rate of implementation of suggestions made after the first follow-up visit stands at approximately 46 per cent.

The table clearly shows that, in general terms, progress has been made by these factories in implementing the suggestions made by the ILO for improving working conditions. It also indicates though that progress varies widely between factories.

Table 5: Suggestions Implemented by Factories Included in the Sixth ILO Synthesis Report.

FIRM	Child Labour			Forced Labour			Discrimination			Freedom of Association/ Labour Relations			Working Conditions ¹			Other ²			TOTAL ³					
	#M	#I	%	#M	#I	%	#M	#I	%	#M	#I	%	#M	#I	%	#M	#I	%	#M	#DC	#PI	%PI	#I	%I
1. Belgian Industries	0			0			0			3	2	66.66	6	4	66.66	17	4	23.52	26	0	3	11.53	10	38.46
2. Bumin Cambodia	0			0			0			4	0	0	20	5	25	25	5	20	49	0	2	4	10	20.4
3. City New Factory	0			0			0			4	1	25	13	0	0	5	0	0	22	1	3	14.28	1	4.76
4. C-One Cambodia	0			0			0			2	1	50	9	1	11.11	20	6	30	31	0	5	16.12	8	25.8
5. Cung Sing Garment	0			0			0			5	1	20	16	4	25	17	4	23.52	38	2	4	11.11	9	25
6. Dajoo Cambodia	0			0			0			4	2	50	16	2	12.5	17	2	11.76	37	1	0	0	6	16.66
7. Eternal way	0			0			0			0			8	5	62.5	9	5	55.55	17	0	2	11.76	10	58.82
8. F.Y Cambodia	0			0			0			2	1	50	16	12	75	6	2	33.33	24	1	4	17.39	15	65.21
9. Gladpeer Garment	0			0			0			3	1	33.33	7	3	42.85	11	2	18.18	21	0	5	23.8	6	28.57
10. Goldtex Cambodia	0			0			0			2	1	50	10	1	10	10	5	50	22	0	5	22.72	7	31.81
11. Grace Sun	0			0			0			2	2	100	7	1	0	20	7	35	22	0	4	18.1	7	31.8
12. Hang Fung Shing	0			0			0			2	0	0	5	2	40	10	1	10	17	1	3	18.75	3	18.75
13. Lucky Zone	0			0			0			5	3	60	14	5	35.71	12	3	25	31	1	3	10	11	36.66
14. Luen Thai Garment	0			0			0			2	0	0	4	2	50	8	4	50	14	0	3	21.42	6	42.85
15. Oceanic Cambodia	0			0			0			4	3	75	14	4	28.57	15	1	6.66	33	1	4	12.5	8	25
16. Phnom Penh G.	0			0			0			3	1	33.33	7	1	14.28	10	4	40	20	0	2	10	6	30
17. Phong Wan	0			0			0			3	0	0	16	3	18.75	20	4	20	39	1	3	7.89	7	18.42

Table 5: Suggestions Implemented by Factories Included in the Sixth ILO Synthesis Report (continued).

FIRM	Child Labour			Forced Labour			Discrimination			Freedom of Association/ Labour Relations			Working Conditions ¹			Other ²			TOTAL ³					
	#M	#I	%	#M	#I	%	#M	#I	%	#M	#I	%	#M	#I	%	#M	#I	%	#M	#DC	#PI	%PI	#I	%I
18. P.Y.L Cambodia	0			0			0			5	3	60	8	0	0	10	2	20	23	1	1	4.54	5	22.72
19. Quality Textile	0			0			0			5	0	0	6	1	16.66	9	2	22.22	20	2	1	5.55	3	16.66
20. S.H International	0			0			0			2	2	100	12	5	41.66	15	8	53.33	29	1	1	3.57	15	53.57
21. San Lei Fung	0			0			0			2	0	0	15	1	6.66	17	3	17.64	34	1	2	6.06	4	12.12
22. Shelby (Closed)																								
23. Thai Pore	0			0			0			3	0	0	6	2	33.33	12	2	16.66	21	0	0	0	4	19.04
24. Top Clothes	0			0			0			4	0	0	12	3	25	14	2	14.28	30	2	1	3.57	5	17.85
25. Trinunggal Komara	0			0			0			1	1	100	5	4	80	6	2	33.33	12	0	2	16.66	7	58.33
26. United Faith	0			0			0			2	1	50	4	2	50	6	2	33.33	12	0	2	16.66	5	41.66
27. USA Fully Field	0			0			0			2	1	50	7	2	28.57	12	5	41.66	21	0	2	9.52	8	38.09
28. Willing (Suspended)																								
29. Winner Garment	0			0			0			1	0	0	5	4	80	11	7	63.63	17	0	3	17.64	11	64.7
30. Yubin Service	0			0			0			2	2	100	8	1	12.5	15	3	20	25	0	4	16	6	24

1. This category covers matters related to internal regulations, contracts, wages, working hours and leave.

2. This category covers matters related to safety, health and welfare.

3. Basis for calculation of %PI and %I: #M minus #DC = 100%

M = suggestions made

I = suggestions implemented

DC = suggestions dropped or combined due to overlap, duplication or because they are no longer valid

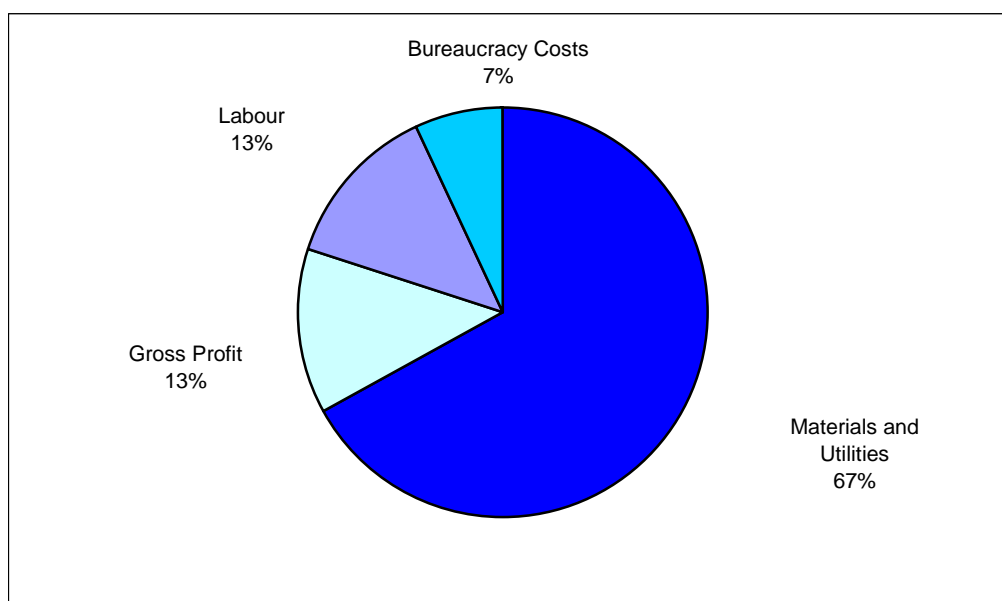
PI = suggestions partly implemented

While the figures alone are a strong indication of progress made they need to put in the correct context to be able to fully appreciate their meaning.

Firstly, the ILO monitors have no law enforcement powers. Their role is first and foremost purely investigative. It is the role of the Garment Sector Project to try and find out what the working conditions' situation is in Cambodia's garment sector and make publicly available information gathered but it is not the Project's role to enforce Cambodia's laws and regulations where discrepancies between the findings and the requirements of the law are found. This responsibility remains squarely within the sole discretion of the relevant Cambodian authorities, i.e. the Labour Inspectorate and the judiciary. Unfortunately, law enforcement and bureaucracy mechanisms in Cambodia are weak, slow and rife with corruption. A survey undertaken into the production costs in the garment industry revealed that "bureaucracy costs" accounted for about 7 percent of sales, or about 70 million US\$ in 2000. (see figure below) These "bureaucracy costs" include fees to be paid to get licenses to set up and operate garment enterprises, import raw materials and export final products, but also payments to labour inspectors. While perhaps understandable from a human point of view considering that the average civil servant in Cambodia makes around 30US\$ a month (while the minimum wage in the garment sector is 45US\$) which is far from sufficient to sustain a family it is obviously not conducive to law enforcement efforts.⁴²

⁴² Cambodia Development Resource Institute, *The Cambodian Garment Industry*, in *Cambodia Development Review*, Volume 5, Issue 3, July-September 2001, (CDRI, Phnom Penh, 2001), p. 3.

Figure 5: Production Costs in Cambodia's Garment Industry.



Source: CDRI, Cambodia Development Review Volume 5 Issue 3 (2001)

Secondly, while the ILO monitors do have an advisory role this is in most instances limited to providing clarifications as to the content and requirements of the law while undertaking a monitoring visit or discussing a draft report with management. Financial and human constraints prevent the Project from providing structural and technical advice with regard to improving working conditions in all factories covered by the ILO monitoring system. The Project does undertake some capacity building activities aimed at ensuring that the tripartite partners are generally in a better position to improve working conditions themselves and in partnership with each other. These activities though are limited in scope, but an ILO sister project, the Labour Dispute Resolution Project, has a broad national capacity and institution building mandate and its interplay with the Garment Sector Project is discussed below.

Thirdly, some of the legal obligations under Cambodian law are not further detailed because the relevant authorities have not issued the implementing regulations. This is for instance the case with regard to sick leave where Article 169 of the Labour Code indicates that

included in the period for which a worker is entitled to paid leave is sick leave but it does not, nor does any implementing regulation, further regulate the details of such sick leave. Another example of such a situation regards the establishment of a nursing room and day care centre at enterprises employing a minimum of one hundred women or girls as required under Article 185 of the Labour Code. Again, no implementing regulations have been issued which could provide employers guidance as to their exact legal obligations. In the absence of such detail implementing the law becomes difficult.

Finally, the tables do not capture the change in attitude that has taken place within the minds of the parties involved, most notably the employers. Where the industry was initially jittered by the workings of the Garment Sector Project and especially by its transparency concerning situations in individual factories, in 2002 Mr. Van Sou leng, the President of GMAC stated that:

“ [o]nce we started talking to buyers, [and] looked at American consumer habits, we realized that we had a comparative advantage. Moreover, our only chance to survive in Cambodia was to build on the image of safe sourcing. Otherwise, we’d lose to price competition.”⁴³

In fact, GMAC has used the presence of the ILO monitoring system in Cambodia as a marketing tool to attract buyers (see figure below).

⁴³ Regina Abrami, *Worker Rights and Global Trade: The U.S. – Cambodia Bilateral Textile Agreement* (Harvard Business School Publishing, Boston, August 2003), p. 12.

Figure 6: GMAC Leaflet.



Source: GMAC (displayed at trade fairs)

The system also carries the clear support of the government. In an interview, the Secretary of State for the Ministry of Commerce, Mr. Sok Siphana, said that "[t]he International Labor Organization's strict garment factory monitoring program has created a worker-friendly environment attractive to international buyers. I'm looking at our country as the only one that cares about labor conditions and the labor law. Our pond is small. If our water is not clean, no one will like to drink our water"⁴⁴ Unions recognize the effects of the monitoring system as well. Mr. Chea Vichea, the President of the Free Trade Union of Workers of the Kingdom of Cambodia, stated in an interview that "[i]n

⁴⁴ Kay Kimsong, Chinese Competition Looms over WTO Entry, The Cambodia Daily, 14 May 2003.

the last three years, it has gotten a little better. We are better than Vietnam and China – we have the right to strike, to negotiate with employers. In Vietnam and China, there are no free trade unions”.⁴⁵ In earlier comments on the effects of monitoring system interview he had also stated that “Cambodia has a good reputation with buyers and consumers.”⁴⁶

The progress made in improving working conditions in Cambodia has also been recognized by the United States in its decisions to provide bonus quota for every year for which the Trade Agreement has been in force. Whereas for the years 1999 - 2002 the U.S. provided 9 % bonus quota, for 2003 it provided 12 % and for 2004 an unprecedented 14% out of the possible 18%.

Considering the context within which the monitoring system operates it is fair to conclude that progress, though indeed varied between factories, is rather remarkable overall given that improvements are made almost entirely without any further guidance, assistance or pressure other than inherent in the ILO monitoring system and the Trade Agreement.

Effect on Cambodia’s international reputation/third parties’ review of the Garment Sector Project.

Apart from the real-term gains made in improving working conditions, the workings of the Textile Agreement and the Garment Sector Project have had a real effect on Cambodia’s reputation, both in general terms and with parties directly involved in the garment sector.

⁴⁵ James Brooke, A Year of Worry for Cambodia’s Garment Makers, The New York Times, 24 January 2004.

⁴⁶ Paul Magnusson, Frederik Balfour and others, Where Free Trade Hurts, BusinessWeek, Asian Edition, 15 December 2003.

When it comes to parties directly involved in the garment sector, there has been keen interest from buyers such as adidas, the GAP, H&M and Nike, as well as from organisations engaged in monitoring themselves such as the Worker Rights Consortium, and international non-governmental organisations and think-tanks such as the Lawyer's Committee for Human Rights, Oxfam and the Carnegie Endowment for International Peace.

Brand-name sensitive buyers, especially in the apparel and clothing sector, are under pressure from consumer groups to ensure that the products they sell are made under good working conditions. Negative publicity in this respect can hurt their bottom line and various buyers have therefore set up their own labour monitoring systems in an effort to ensure that their products are produced in a socially responsible manner. These buyers therefore have a natural interest in the workings, findings and effects of the Garment Sector Project, especially when they source from Cambodia like adidas, the GAP, H&M and Nike do. Their reaction has been largely positive, if not necessarily made public. However, Dusty Kidd, Nike's vice president for corporate responsibility compliance has stated that Nike "wouldn't be manufacturing in Cambodia if there weren't an ILO program there" and went on to say that the Garment Sector Project "is the only one where the results are released factory by factory (which offers assurances to buyers)". He even went as far as to say that "[w]e would be delighted to see the Cambodia project repeated (in other countries)".⁴⁷

The Worker Rights Consortium (WRC) is made up of universities, student activists and independent labour experts. Its aim is to investigate garment and apparel factories that manufacture for university licencees, which are manufacturers and retailers granted a license by a university in return for a fee or a share in profits to produce

⁴⁷ ILO, *Cambodian Monitoring Reveals Progress and Problems*, in ILO Focus, Winter 2003, ILO Washington Office, p 14-15.

goods which carry the name or the logo of a university, when workers in those factories lodge a complaint with the organisation. In April 2002 a delegation from the WRC came to Cambodia to see how far the monitoring system of the Garment Sector Project would constitute an adequate alternative for their own monitoring system. Though initial verbal indications from the WRC delegation made to the CTA at that time were that it largely was, the WRC never issued a formal report or opinion on its investigation.

The Lawyer's Committee for Human Rights did offer a published opinion on the workings of the Garment Sector Project, albeit indirectly. A representative from the Lawyers Committee was part of the WRC delegation that visited Cambodia and Bangladesh where the ILO also has a monitoring project. It subsequently published an analysis of the project in Bangladesh within which it stated that "[o]ne of the innovative mechanisms used by the ILO's program in Cambodia is its provision of information to a compliance-conscious buyers' market" and recommended the project in Bangladesh adopt the same approach.⁴⁸

In early 2004, Oxfam launched a campaign to improve working conditions of females in certain global industries based on findings published in a report in which it argued that current trade patterns in the fashion and food industry, whereby companies at the top of the global supply are constantly pressuring their suppliers to produce goods ever cheaper and faster, are directly undermining the working conditions of the largely female work force at production level.⁴⁹ While the research on which the report is based does not cover Cambodia, Oxfam launched its global campaign on women's labour in Cambodia because of "the unique situation of the garment industry here". Oxfam

⁴⁸ Lawyers's Committee for Human Rights, International Standards and Voluntary Monitoring, The International Labor Organization's (ILO's) Garment Sector Project in Bangladesh, (Lawyers Committee for Human Rights, New York, September 2003), P. 9.

⁴⁹ Oxfam, Trading Away Our Rights; Women working in global supply chains, (Oxfam International, Oxford, 2004).

stated that “[l]argely because of the inspection system set up by the International Labour Organisation, the “Cambodian sweatshop” is now a thing of the past”. While recounting that problems do exist, Oxfam continued by stating that “[t]he Cambodian government and industry is beginning to address these problems, and we congratulate them. But there is much more to be done – the country should agree to continue ILO inspections of factories indefinitely, for one. This system can help establish the country as a brand that guarantees to shoppers their clothes were made by people paid decently and whose rights are respected - and it could become a model for other developing countries”.⁵⁰

The Textile Agreement and the ILO Project were also analysed in a Report for the US Congress by the Congressional Research Service concerning the possible content of a possible Vietnam-U.S. textile agreement. In recounting the pros and cons it states that “[s]upporters of the Cambodia model emphasise that as labour conditions improved, through the incentive scheme, so did the economic benefits to Cambodia. Since the start of 1999, Cambodia has increased its garment and textile exports to the U.S. by roughly US\$500-600 million, the number of garment factories has increased, and approximately 100,000 jobs have been created in the sector. Some contend that the ILO’s neutral review of labour conditions makes Cambodia’s garment sector more attractive for buyers and retailers who are concerned about social responsibility. They also assert that by contributing to improved labour relations, the Cambodia model has enhanced political stability – another critical factor in economic growth. Thus, according to some, the Cambodian model proves that linking trade and labour can bring about the win-win results of economic growth

⁵⁰ Oxfam International, Cambodia’s garment workers deserve the rich world’s support, Press release of February 8, 2004.

and improved working conditions.”⁵¹ According to the report, U.S. Trade Representative Robert Zoellick called the Cambodia agreement “an excellent example of the way trade agreements lead to economic growth and promote a greater respect for workers’ rights.”⁵²

In an Issue Brief of the Trade, Equity and Development Project of the Carnegie Endowment for International Peace, the Agreement and the Project are analysed within the framework of discussions concerning the possible signing of the U.S.-Central America Free Trade Agreement. It states that “[t]he striking improvements in working conditions and compliance with law that have been achieved in this sector suggest that it this has been one of the most successful and cost-effective programs to promote worker rights abroad that the US Government has ever funded.”⁵³ In a later Issue Brief it is said that “the primary benefit provided by the ILO was transparency: all interested parties, including the two governments, factory owners, workers, buyers and consumers, has access to information about what actually went on in the factories. Thus, efficient decisions could be made by brands regarding whether potential sourcing factories complied with labour laws. International consumers, media, and NGO activists learned that they could rely on ILO information as accurate. The result was that compliant factories gained increased orders, while noncompliant factories did not. This is precisely the kind of mechanism that sends appropriate market signals to all actors.”⁵⁴ The Carnegie Endowment, together with some partners, is currently engaged in the development of a possible monitoring and capacity building project within the framework of CAFTA. For this purpose it held a workshop in October

⁵¹ Nicole J. Sayers, Report for Congress; The Vietnam-U.S. Textile Agreement Debate: Trade Patterns, Interests, and Labor Rights, (Congressional Research Service, The Library of Congress, Washington, June 2002), p. 15.

⁵² Idem.

⁵³ Sandra Polaski, Central America and the U.S. Face Challenge-and Chance for Historic Breakthrough-on Workers’ Rights (Washington, Carnegie Endowment for International Peace, February 2003), p. 5.

⁵⁴ Sandra Polaski, How to Build a Better Trade Pact with Central America ((Washington, Carnegie Endowment for International Peace, July 2003), p. 7.

2003 where the CTA of the Garment Sector Project was invited to share some of the lessons learned in Cambodia. The drafts produced so far are clearly framed around the Cambodian model.⁵⁵

Finally, when it comes to the interest from the general media, coverage has been unprecedented. Whereas Cambodia usually makes the international press with negative stories related (still) to its Khmer Rouge legacy, be that the stalled establishment of the Khmer Rouge Tribunal or the continued toll inflicted on Cambodia's population by landmines; the continued difficulties that surround elections in Cambodia, it's high rate of HIV/Aids infections, and, increasingly, as a destination for pedophiles, the positive press coverage generated by the unique and innovative workings of the Textile Agreement and the Garment Sector Project has been nothing short of remarkable. To name but a few, the Agreement and the Project received positive coverage by leading magazines and newspapers such as BusinessWeek and the NY Times, and were featured in items broadcast by the BBC and CNN.

Overall, the general opinion is clearly that something innovative and apparently successful is going on in Cambodia that could serve as a model for other countries to follow. Most of these opinions though are based on the workings of the ILO Garment Sector Project only. The ILO has other projects in Cambodia though whose activities have a direct bearing on the working conditions situation in Cambodia and the capacity of the tripartite partners to make improvements alone or in cooperation with each other. The following chapter will discuss these projects, in addition to the Garment Sector Project, to illustrate the interplay between the different ILO efforts and the effects this has on the garment industry and the wider capacity of the tripartite partners to engage in meaningful and constructive industrial relations.

⁵⁵ First and second draft documents entitled Export Success in Central America Partnership (ESCA): Monitoring and Capacity Building to Ensure Compliance with Labor Standards, not published.

5. THE ILO AND CAPACITY BUILDING

ILO Capacity Building Efforts Most Relevant to the Garment Sector.

Considering the size of its population, the ILO has a heavy presence in Cambodia. In fact, it tops the list of beneficiary countries of ILO assistance in the Asia Pacific Region. As of 31 March 2004, no less than 20 ILO projects and programmes were operational with activities covering issues ranging from HIV/AIDS in the work place to labour intensive infrastructure development. Apart from the Garment Sector Project, of these 20 projects and programmes there are two further projects that have a direct bearing on the garment sector in Cambodia. These are the ILO Worker's Education Project and the ILO Labour Dispute Resolution Project. Under these three projects several capacity and institution building activities have been undertaken which have a direct bearing on either the ability of the tripartite partners to improve working conditions in the garment sector or the industrial relations set-up under Cambodian rules and regulations.

The ILO Garment Sector Project

As described earlier in detail, the Garment Sector Project's main function is the operation of the independent monitoring system. The proper functioning of this system requires, however, that certain activities are undertaken which enable the tripartite partners to improve working conditions through their individual or combined efforts without ILO assistance.

For instance, at times the ILO will interpret a legal requirement different from one of the partners within the project. In case the law and its implementing regulations do not provide enough clarity, the Project will request the Ministry of Social Affairs for an opinion and

subsequently follow that opinion during its monitoring activities. This happened, for example, when the ILO interpreted the law as stipulating that casual workers are entitled to the minimum wage whereas the practice in many factories in the sector was that they were paid less. The Ministry concurred with the ILO so it remained the standard used within the monitoring system and, as a result, some factories have started paying their casual workers the minimum wage where they previously did not.

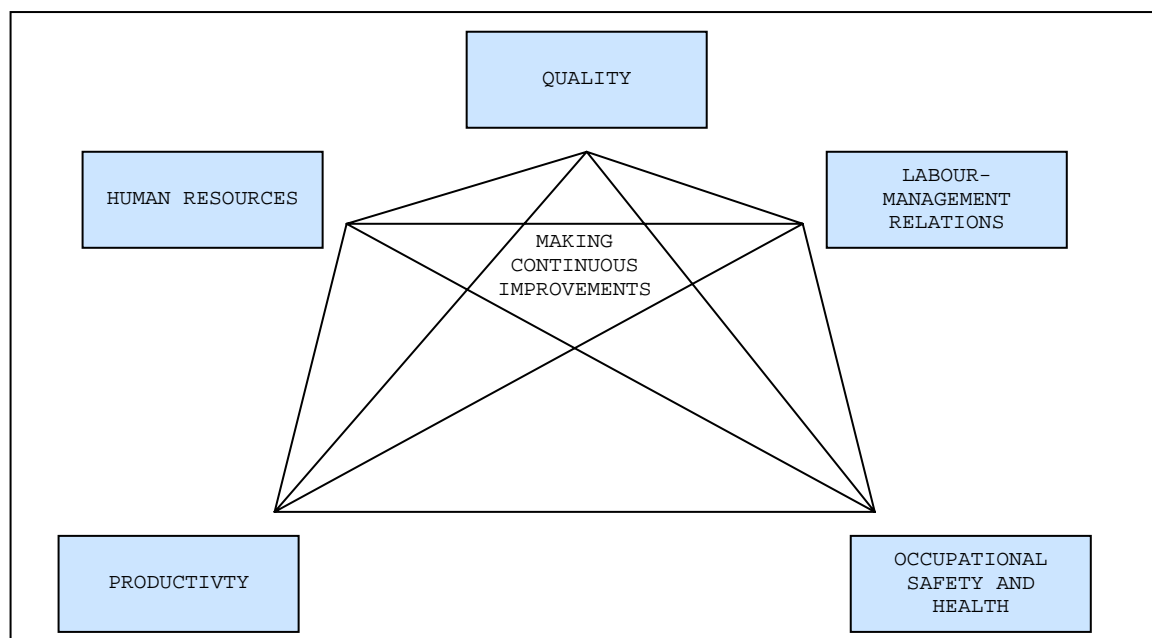
Another activity flowing from the monitoring relates to child labour. Though it is found only in exceptional cases, and only because workers have falsified their documents in order to get a job, the ILO considers that when it is found immediate action needs to be taken. GMAC and MOSALVY agreed with the establishment of a system under which the factory is given the choice of facilitating the removal of the child from the factory or face sanctions to be imposed by MOSALVY. If the factory chooses to cooperate, it basically has to agree to paying for the costs involved in placing the child in an appropriate vocational training institute as identified by the ILO in consultation with the child and his/her family as well as continue to pay a monthly salary equal to the average salary of the past 3-6 months (provided it was equal or more than the minimum wage) and declare a willingness to re-hire the child once he/she has turned 15. All factories in which child labour was found have cooperated so far, but should they not have GMAC had declared itself willing to cover the costs involved and facilitate placement in a different factory once the child had turned 15. This system could easily operate without the ILO and serve as a model for other sectors.

More straightforward assistance is provided by the Project upon request by the Ministry. Thus, in 2001 it asked the Project to arrange for assistance in the drafting of a Prakas (ministerial regulation) outlining the process through which unions can obtain the status of being the

most representative in a factory and therefore have certain privileges, for instance with regard to collective bargaining. The assistance was provided and resulted in the promulgation of Prakas (ministerial regulation) 305 of 22 November 2001. As a result, some unions have obtained most-representative status and engaged in collective bargaining efforts.

The most comprehensive capacity building activity undertaken within the garment Sector Project though is its Factory Remediation Programme. This programme started its activities in the first half of 2003 with the establishment of a modular training programme aimed at building the capacity of managers and union representatives in improving working conditions and through these improvements productivity of workers and the quality of goods produced. Eight factories participate in the programme. Its 6 modules of 6 weeks each cover different topics and commence with a two-day training seminar following which an ILO expert and ILO programme staff will visit each factory to develop an action plan for changes to be made. The programme staff will then assist the factory in implementing the plan and monitor its implementation. (See figure below).

Figure 7: Overview of Garment Sector Project Factory Remediation Programme.



As of 31 March 2004, the Programme had progressed up to its sixth training module, which was scheduled to take place in May. Participation of factories has been varied, as has implementation of the factory action plans. All factories had made progress though and examples range from the introduction or adjustment of existing grievance procedures, to the alteration of the lay out of cutting tables to improve the flow of work, or the commencement of life skills classes for workers, including on sexual reproduction and health. It is hoped that lessons can be learned from the programme and subsequently applied, together with the tools developed, on a wider scale throughout the sector.

The ILO Workers' Education Project

The Workers Education Project has been in operation since 1998 and has as its main objective to build the capacity of trade unions to function properly within well-established organisational structures so as to be able to effectively promote and protect the rights and interests of their members. Since most of the unions in Cambodia are operational in the garment sector, its activities, though not sectoral in range, clearly benefit this sector.

The Workers' Education Project builds capacity by providing training of union leaders, union educators and rank and file union members. This is done directly by third parties or indirectly through a pool of union educators selected from the union federations that participate in the project. For the year 2003, it trained 2,507 different persons through a series of 120 different training seminars and workshops. Training topics cover issues ranging from "Basics of trade

unionism” to “HIV/Aids in the workplace”.⁵⁶ The Garment Sector Project and the Worker’s Education Project joined forces to provide training to factory level union leaders in the area of occupational safety and health. Under this training segment, the first 12 union educators were trained by an independent contractor on technical OSH issues (lighting, noise, chemicals, etc.), as well as operational matters (establishment of labour-management safety and health committees, etc.). These educators in turn organised 15 training workshops between April and November 2003 for factory level union representatives. In total, 230 union representatives were trained in these workshops and in 4 factories this led to the establishment of labour-management safety and health committees. A modest number but prior to their establishment no such committees existed at all in any factory in Cambodia. In addition, the union educators now act as OSH focal points in their respective union federations.

⁵⁶ ILO, Annual Report 1 January – 31 December 2003, Worker’s Education Assistance to Cambodian Trade Unions, p. 2-3.

The ILO Labour Dispute Resolution Project

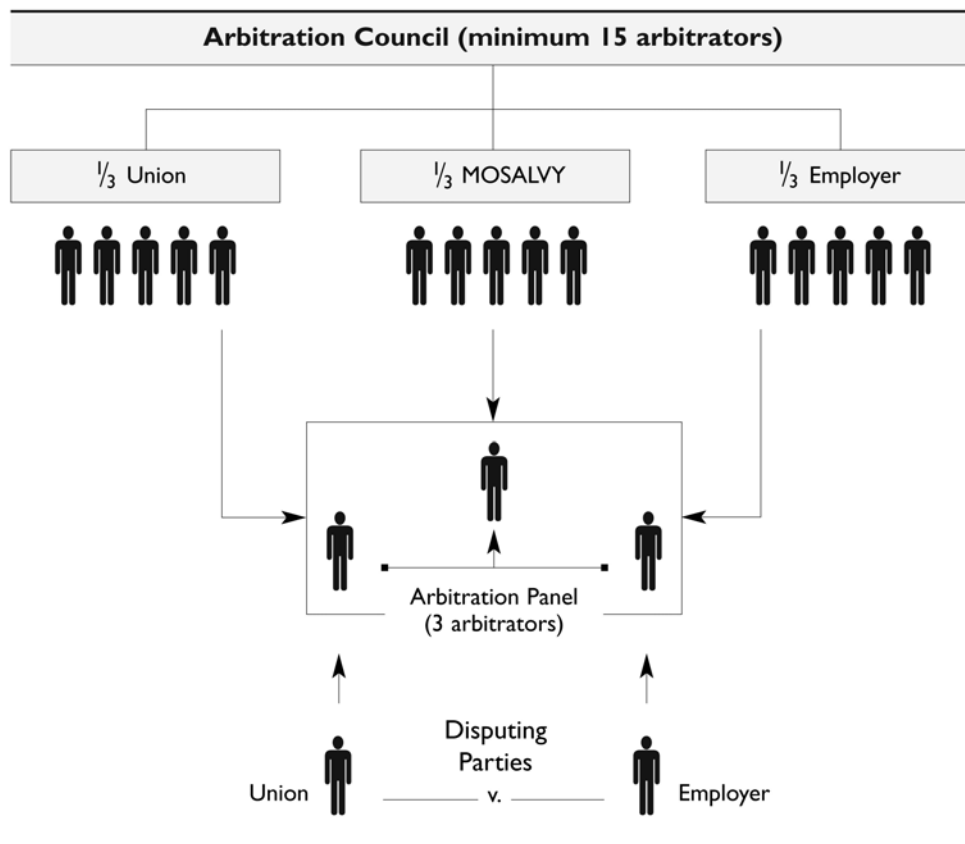
The Labour Dispute Resolution Project has been in operation since January 2002 and has as its aim to build the capacity of the tripartite partners and develop procedures and institutions for the prevention and resolution of labour disputes. Again, this project does not operate on a sectoral basis but since the garment sector is by far the most important and largest formal sector in Cambodia its activities also clearly benefit this sector. While the project has undertaken activities ranging from the training of conciliators to the development and introduction in some enterprises of grievance procedures, its most eye-catching achievement has been the establishment of an Arbitration Council.

The establishment of the Arbitration Council was foreseen under the 1997 Labour Code but as it never materialised, the only available options for dispute resolution were negotiation, conciliation under the auspices of the MOSALVY, and failing this, industrial or judiciary action. Considering the weaknesses of Cambodia's administrative and judiciary structures parties had little faith in the options available to them. The Council provides an avenue for the resolution of collective labour disputes and forms the link between negotiation and conciliation on the one hand and industrial and judiciary action on the other, since it will only hear cases where the former has failed and the latter can only be instigated when arbitration has taken place and the award issued subsequently rejected by one of the parties.

The Council is a tripartite body composed of arbiters nominated by unions, employer associations and the government. It must have at least 15 members with one third being nominated by each of the tripartite partners. When a dispute is referred to the Council, the employers' side chooses an arbiter from the list of arbiters nominated by the employers and the worker's side will choose an arbiter from the

list of arbiters nominated by unions. These two arbiters will choose a third from the list nominated by the government who will act as chairperson. This 3-person panel will hear the case and issue an arbitral award (see figure below).

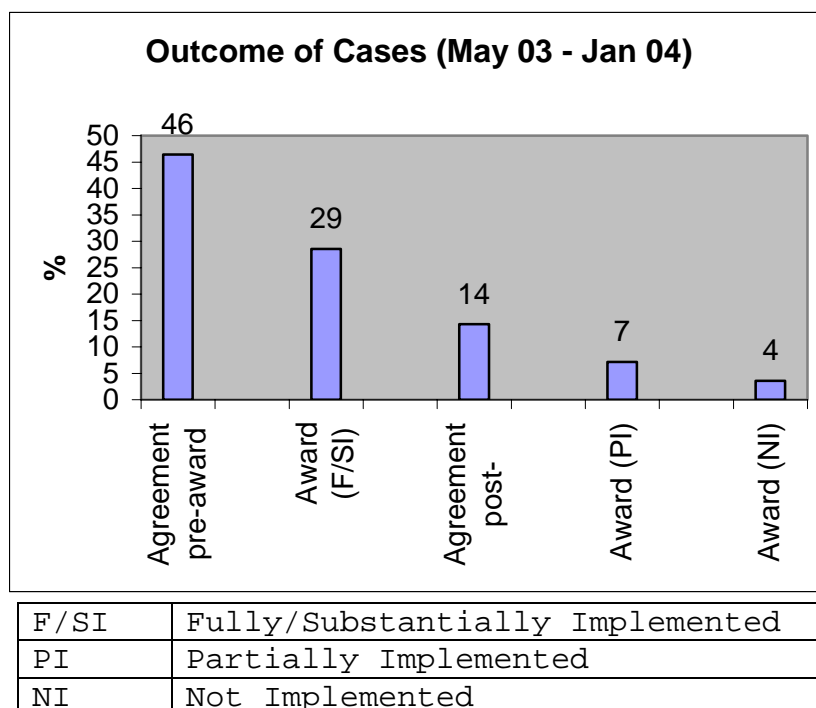
Figure 8: Composition of the Arbitration Council.



Source: Community Legal Education Center, The Arbitration Council and the Process for Labour Dispute Resolution in Cambodia (CLEC, Phnom Penh, 2003), p. 12.

Since its inception in May 2003, the Arbitration Council has been a remarkable success. By March 2004, the Council had received 37 cases involving enterprises, which employ over 33,000 workers. By the end of January 2004 it had completed the entire arbitration process for 28 cases. The outcome for these cases can be found in the figure below.

Figure 9: Outcome of Cases Referred to the Arbitration Council.



Source: ILO Labour Dispute Resolution Project (not published).

While the Arbitration Council ultimately depends on the Cambodian judicial system to enforce awards, the weakness of the judiciary in Cambodia only highlights the success of the Arbitration Council. The number of cases heard, the number of cases fully processed within the time-limit set, the rate of implementation of awards indicating acceptance by the parties involved of the stature of the Council, the drop in the strike rate for the garment which can, at least, be partly contributed to the Council since in most cases no strikes occurred prior to referring cases to the Council and in the instances where they did the relevant party complied with an Council order to cease the strike (see figure 4), are all indications of the success of the Council. For the first time in Cambodia's post-Khmer Rouge history, there exists a national institution, which provides an independent avenue for the speedy resolution of disputes. This stands in stark contrast with the rest of Cambodia's judiciary system as illustrated by the words of Mr. Chuon Mom Thol, leader of the pro-government

Cambodian Union Federation, who stated that “the arbitration panel has played a good role; they do their job, not like a normal court”.⁵⁷

Overview of interplay between US-Cambodia Textile Agreement and relevant ILO Projects

When looking at the US-Cambodia Textile Agreement and the Garment Sector Project there is an obvious and clear link. The decision taken by the U.S. through the inter-departmental Committee for the Implementation of Trade Agreements (CITA) as to whether or not to provide Cambodia with bonus quota under the Textile Agreement and, if it decides to do so, at which rate, is in large part based on the information flowing from the monitoring system under the Project. This becomes clear from a press release from the US Embassy in Phnom Penh which, in commenting on the quota allocation for 2004, indicated that “[t]he quota determination is based on consultations between the U.S. Government and the Royal Government of Cambodia in May and November 2003, our own observations and reports on working conditions and union rights in the industry, and the International Labor Organization’s Garment Sector Working Conditions Improvement Project monitoring reports.”⁵⁸ There is more to it than that though because less obvious, but therefore not less important, is the link between different ILO Projects and the tripartite partners who benefit most from the Textile Agreement, whether that is the Government who receives additional revenue through the sale of quota, the individual factories who can export more, or the unions whose members work under improved conditions (see figure 10). That these linkages play a clear role can be illustrated by again quoting the U.S. Embassy press

⁵⁷ James Brooke, A Year of Worry for Cambodia’s Garment Makers, The New York Times, 24 January 2004.

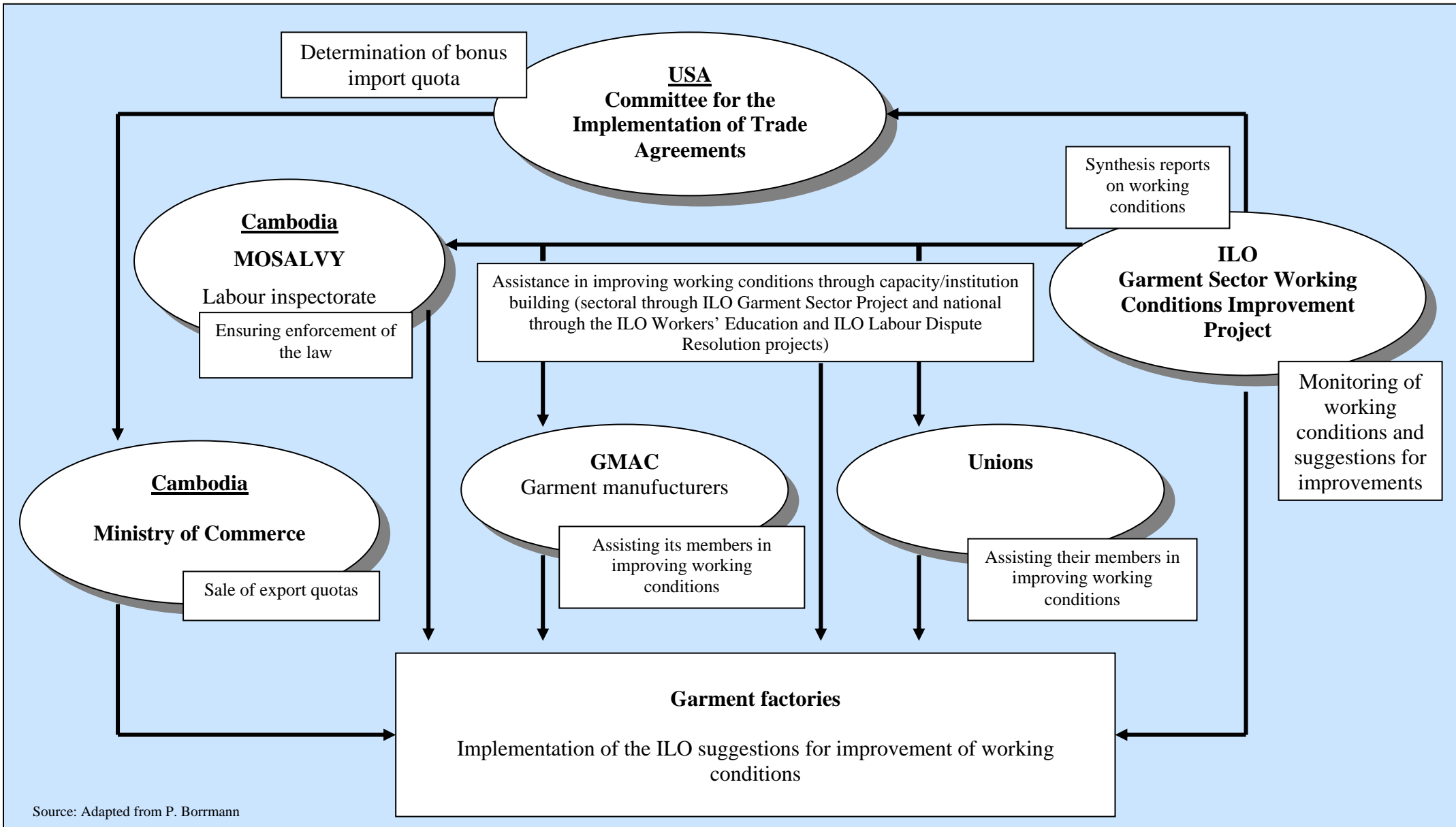
⁵⁸ U.S. Embassy in Phnom Penh, U.S.-Cambodia Bilateral Textile Agreement Quota Bonus Decision for 2004, Press Release of 3 December 2003 at <http://usembassy.state.gov/cambodia/www0060.html>

release which indicated that “[d]uring the past year, there have been improvements in compliance with laws on wages and hours, greater respect for freedom of association, improvements in labor-management relations, fewer illegal dismissals of union leaders, fewer illegal strikes, the successful establishment of Cambodia’s first labor arbitration council for resolving industrial disputes, and the recent negotiation of the garment sector’s true collective bargaining agreement.”⁵⁹

Ultimately it will be the effectiveness of the combined interplay that will ensure whether or not gains made under the Garment Sector Project in improving working conditions will be sustainable without ILO assistance and without the presence of the Textile Agreement. Because ultimately it will be the effectiveness of Cambodia’s industrial relations institutions and mechanisms and the overall capacity of the tripartite partners to make use of these institutions and mechanisms in a constructive manner, which will determine whether Cambodia’s garment sector will self-implode or will have a chance of survival. The question remains, of course, whether other negative forces, such as the height of “bureaucracy costs” and the end of the quota system under the MFA, will not spell the end of the sector anyhow. It is clear, however, that the garment sector can only benefit from improved working conditions and an improved industrial relations setting in Cambodia and that it will enhance its chances of survival in a post-quota world.

⁵⁹ Ibidem.

Figure 10: Overview of Garment Sector Links.



Source: Adapted from P. Borrmann

6. LESSONS LEARNED

In analysing the ILO Garment Sector Project it is possible to identify four areas within which a number of broad principles have been applied which form its strengths and which should be taken into account, most certainly by the ILO but also by other entities, when setting up labour rights monitoring systems regardless of where this is done. These areas are (i) approach (ii) participation (iii) coverage, and (iv) transparency.

Approach

Principle 1: Monitoring activities should be undertaken by an independent entity.

Monitoring activities stand or fall with the perceived independence of the entity undertaking the activities. As soon as the monitoring entity has a stake in the success of the monitoring or the findings it produces, other than the professionalism of the work delivered, people will immediately doubt the outcomes and results regardless of whether or not they are correct and reflect the truth. That is one of the problems brands face when they themselves monitor working conditions in the factories from which they source. If in Cambodia, the monitoring system would have been operating in exactly the same manner as it does under the auspices of the ILO but instead had been set up by the Labour Inspection Department, nobody would have believed the findings.

In this respect, the ILO, with its stature as a UN organisation and reputation for objectivity and independence clearly has a comparative advantage over other entities engaged in monitoring, at least when it comes to monitoring labour standards.

The perceived independence of the monitoring system should always be the overriding factor when deciding to engage in joint activities with the partners. At times it was suggested that monitoring visits be undertaken jointly by ILO monitors and government labour inspectors as a capacity building activity for the labour inspectors. The CTA decided not to do this because it believed it would have led to difficulties in maintaining the perception of independence simply because people think the government inspectorate is corrupt and unreliable and would subsequently conclude that the ILO, or at least the monitoring system, must therefore also be.

Principle 2: Monitoring activities should be undertaken as a means to an end and not as an objective in itself.

The objective of the ILO Garment Sector Project is to improve working conditions. The monitoring system set up within the Project is a means to an end in this respect. It is used to identify problems for which solutions are subsequently sought and activities initiated to actually solve them. While the information flowing from the monitoring system feeds into a decision-making process regarding the provision of bonus quota to Cambodia, merely gathering this information is clearly not the end goal of the monitoring process for the ILO and its partners. Monitoring has no value in itself.

Principle 3: Monitoring activities should always be paired with capacity/institution building activities.

While the Garment Sector Project does undertake some capacity building activities, it does not have the mandate, or the means to undertake structural and sector-wide capacity and institution building activities. This falls within the mandate of its sister project, the

Labour Dispute Resolution Project. If monitoring should not be an objective in itself, as stated under principle 2, then logically programmes should be developed and in place to achieve the stated objective to which the monitoring contributes prior to engaging in monitoring activities. While the Labour Dispute Resolution Project started at a later date, this was due only to difficulties in identifying a CTA to manage the project. The Labour Dispute Resolution and the Garment Sector Project were, in fact, designed together precisely to ensure that monitoring activities were backed up by structural capacity and institution building activities to deal with the problems identified on a structural and permanent basis.

Principle 4: Monitoring and capacity/institution building activities should preferably not be undertaken by the same entity.

The establishment of an effective and independent monitoring system requires a different relationship with the tripartite partners than what is needed for the development and implementation of capacity and institution building activities. While both should be based upon consultation and collaboration, the former requires more distance from the partners in order to ensure that the monitoring is truly perceived as independent. In principle therefore monitoring and capacity building should be kept separate and therefore not be undertaken by the same entity. While in Cambodia it is the ILO that undertakes both activities, they are separated in different projects and are perceived as separate by the tripartite partners.

Participation

Principle 5: Monitoring activities should only be undertaken after - and in - consultation with the tripartite partners/stakeholders.

To ensure that monitoring activities are designed as best as possible it is vital that the tripartite partners/stakeholders are consulted and have a role to play in their design, adjustment and functioning. First of all, consultation of the local partners will increase the likelihood that the system will function since they will have been designed taking into account local circumstances. Secondly, and perhaps more importantly, consultation will create a sense of ownership amongst the partners, which is absolutely crucial considering the intrusive nature of monitoring activities. The role of the PAC in the Garment Sector Project with regard to the recruitment of the initial group of monitors, the development of the checklist and the review of the Synthesis Reports prior to publication, has contributed greatly to the success of the Project. It created a sense of influence, ownership, and even control amongst the partners, which facilitated greatly that, for instance, the publication of findings linked to factory names, was possible.

In this respect, it should be said that the ILO has a comparative advantage over other entities in being able to consult the tripartite partners because it has a natural link with these partners because of its tripartite structure, and because it has, in most instances, an existing relationship with these partners, and, in general, a reputation amongst these partners for objectivity and independence.

Coverage

Principle 6: Monitoring activities should cover all entities in the group of entities to be monitored.

The Garment Sector Project is unique in that it covers the entire garment sector in Cambodia, with the exception of a few factories that do not export. In doing so, it creates a level-playing field, at least on a national level, for all factories. First and foremost this ensures that

all factories are treated equally but it also enhances the ability of the Project to draw broad conclusions from the monitoring findings as to what the structural problem areas are. A criticism often heard with regard to monitoring activities undertaken by private entities is that they only cover a segment of a sector in a country since the monitoring scheme is based on the existence of a sourcing connection, while other factories, that could literally be next door, escape scrutiny. Ensuring that a monitoring scheme covers an entire sector is therefore the preferred option though difficult to achieve.

Principle 7: Monitoring activities should be based on a set of standards to which the entities are either legally bound or have voluntarily agreed with.

Making use of standards in a monitoring scheme to which the entities that are being monitored are legally bound to or have agreed with increases the likelihood that the entities will participate fully within the scheme. While the Trade Agreement talks about the establishment of a programme to improve working conditions, including internationally recognised core labour standards, it indicates improvement should be brought about through the application of Cambodian labour law. As explained, it is assumed that all the core standards of the ILO, the principles of the Fundamental Conventions of the ILO, have all been more or less incorporated into Cambodian law since the ILO largely drafted the Labour Code. Monitoring is therefore based on the standards contained in Cambodian law. This has as an advantage that the factories monitored will not feel that they are held to external standards they would not be held to without the existence of the monitoring system. This makes monitoring easier. As explained above, where gaps in the law existed, the ILO based standards on what could reasonably be required. Through the review and

endorsement process in the PAC these requirements were agreed upon by all parties, including GMAC. As a result, it became much more difficult for factories to complain about these requirements since they had been agreed upon by their representative organisation.

Transparency

Principle 8: Monitoring activities and reporting on these activities should always be undertaken in a transparent manner.

Transparency is a key factor in the success of the Garment Sector Project in Cambodia. The Synthesis Reports provide this transparency up to an unrivalled degree. Not only do they explain the workings of the monitoring scheme, including the monitoring protocol and the number of factory visits undertaken, they also freely report on the findings, and at certain intervals, include factory names. This transparency not only increases the effectiveness of the monitoring scheme since all interested parties are in a position to provide feedback on the basis of which improvements could possibly be made, it also generates confidence in the monitoring system since all can see how it works and what the findings are.

This transparency also has a more psychological effect that is of great importance. By being open about the problems that exist with regard to working conditions in the garment sector in Cambodia, the tripartite partners can display sort of a sense of self-criticism (at least the unions and the employers) since they agreed and participated in the scheme. Because the monitoring system is linked with capacity and institution building activities, this transparency basically allows the tripartite partners to state publicly: 'We know we have problems, but we have identified these problems and there are programmes and activities in place to try and solve these problems as well as a system

that monitors in how far we are successful in making improvements.’ Being able to say this confidently, and they can because it is the ILO, an external, independent and widely respected UN Organisation that undertakes the monitoring activities and leads the capacity and institution building activities, leaves very little room for criticism by outsiders. This creates a space within which activities aimed at solving the problems identified can be implemented with a semblance of calm. For example, when the First Synthesis Report was published people were very much afraid it would hurt the image of Cambodia. The opposite happened; in spite of the myriad of problems identified in the report, it clarified that certain problems that most people assumed would exist in Cambodia’s garment sector, such as child labour, did not exist or at least not on a large and structural scale, and the partners in Cambodia were widely praised for having agreed to the monitoring scheme and trying to solve the problems identified. Similarly, when the Third Synthesis Report, which was the first report with factory names in it, was published people were afraid that factories would be subject to bad publicity and lose orders. In reality, not a single factory was subject to bad publicity and not a single factory lost orders. Instead, some buyers indicated they were working together with some of the factories in the report to try and improve the situation.

It should be noted here that the benefits of transparency are directly linked with the perceived independence of the entity that undertakes the monitoring. As indicated earlier, the ILO has a comparative advantage in this respect.

7. CONCLUDING REMARKS

While it appears that there is international consensus concerning the need for - and content of - a set of core labour standards that should be applicable worldwide, the international instruments developed so far by the different international organisations lack an enforcement mechanism. A possible solution to this problem would be the inclusion of a social clause in the WTO framework whereby labour standards would be directly linked to trade, and their application subject to the WTO enforcement mechanism. It will be a while before that happens, although I do believe that it will, one day, happen.

If the ILO Garment Sector Project and the U.S. Cambodia Trade Agreement have proven anything, it is that linking trade with labour can be a win-win situation. It remains to be seen whether enough progress has been made in Cambodia to indeed build upon its emerging reputation of having relatively good working conditions and attract enough buyers to be able to survive a post-MFA, quota free world. This will also depend though on the willingness of these buyers to pay a higher price for their products to offset lower productivity levels in Cambodia as compared with China or even the "bureaucracy costs" which inflate the cost of production in Cambodia. Obviously, the Cambodian government has a clear role to play with regard to the latter issue.

If Cambodia's garment sector does not survive then this would be nothing less than a tragedy. For the country as a whole which will lose 95 per cent of its export revenue when already approximately 50 per cent of the annual national budget comes from donor countries, but most of all for the 230,000-odd garment workers who are toiling day in day out to house, feed, cloth and school the millions of family members that they left behind in their villages and who depend on them.

If Cambodia's garment sector does not survive then one of the few things that will be left are the lessons learned from the experiment called the ILO Garment Sector Working Conditions Improvement Project that established and operated a monitoring system, widely regarded as a successful and a possible model for use elsewhere. It would be a shame if those lessons were lost as well.

Because of its tripartite structure, the ILO is in a unique position to provide models, develop guides, undertake research, etc, with regard to undertaking monitoring activities as well as in the broader field of corporate social responsibility. The debate over linking trade with labour as well as in how far the ILO can engage in partnerships with individual companies has so far prevented it from taking on this role. It would be nice to think that, like the Starship Enterprise, the ILO would be able to reach for the stars and boldly go where no man has gone before. The world would be a better place for it.

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