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Trade Union Law

Honourable Prime Minister:

The International Trade Union Confederation (ITUC) remains deeply concerned with the content of the proposed text of Trade Union Law (TUL). The ITUC and its Cambodian affiliates have provided to the government detailed comments, analysis and recommendations throughout the drafting process in order to bring the draft law into compliance with ILO Convention 87. As we explained in our letter to Prime Minister Hun Sen on 2 December 2015, the draft law submitted to the National Assembly, while improved, still fell well short of our expectations, and more importantly the requirements of international law. The joint report prepared by the CPP and CNRP in March 2016 does not nearly go far enough in addressing our concerns. Should we see no further progress, we will have no choice but to undertake an international campaign to oppose it.

Though we have numerous concerns, our affiliates have identified the following a high priorities.

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

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

Article 14: The draft law prohibits trade unions from entering into any legal arrangements prior to being registered. The ILO has made clear that the exercise of legitimate trade union activities should not be dependent upon registration." Unions who have filed for registration should be able to enter into contracts, etc., and to sue if necessary. The law should be clarified so that unions are able to operate legally during the registration process.

Article 17: While a government may request that an audit is provided for its review, this proposed article goes well beyond that. For example, unions are required to report on all of their activities on an annual basis, which is not consistent with Convention 87. Further, the union should not have to provide details of its bank accounts if it is already supplying an

audit from a certified auditor. Also, unions are required to provide information on changes of bank accounts and membership numbers within 15 days. Even extending this to 30 days is unreasonable. It is likely that membership numbers will always be changing, requiring constant updates. Failure to do this would invalidate the registration, pursuant to the procedures in Articles 18 and 19.

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

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

Penalties: Employer sanctions under the law are for too low to be dissuasive. For nearly all violations, the maximum fine is 5 million riels (1 million riels = US \$250/Euros 233). Thus, the maximum fine permitted is a mere \$1,250. The majority of employers will simply pay the small fine as the cost of doing business, assuming the government attempts to collect it in the first place.

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

Yours sincerely,



General Secretary

cc: Ith Sam Heng
Minister of Labour

Guy Ryder, Director General
International Labour Organisation