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The impact of the ending of quotas on the textile industry

Cambodia: increasing pressure on trade union rights



Mounting tension in factories risks tarnishing the country's good reputation with foreign investors

INTRODUCTION

Since 1 January 2005, the quota system which for a long time controlled exports of clothing and textiles from producer countries to the world's major markets (mainly the United States and the European Union) has been dismantled and now no longer applies between member countries of the World Trade Organisation (WTO). As had been expected, this abolition of ceilings on exports is primarily benefiting China which is highly competitive, mainly thanks to its cheap labour (which is in turn due largely to its total repression of any freedom of association), as well as economies of scale and recent investments in the sector.

Indeed, in recent weeks the international press has widely reported the tremendous leaps forward made by Chinese exports of clothing to the West. According to Chinese customs statistics, between January 2004 and January 2005 Chinese exports of textiles and clothing to the United States soared by 65.26% and, according to Euratex (the European Apparel and Textile Organisation), its exports of textiles and clothing to the European Union rose by an impressive 46.5%. Since then the trend has been consolidated further, prompting extensive job losses throughout the world in both developing and industrialised countries. In fact, the American Manufacturing Trade Action Coalition (AMTAC) reports that 17,200 jobs were lost in the US textile and apparel sector during the first quarter of 2005.

In a report published on 24 November 2004 (1), the ICFTU sounded the alarm by drawing attention to the prospect of dramatic social consequences in many clothing-producing countries less competitive than China, prompting major buyers to divert their orders from these countries to the Chinese giant. One of the countries studied in that report was Cambodia, whose economy is highly dependent on the clothing sector. Cambodia is also a country without any system of social security, where the human consequences of large-scale job losses could prove catastrophic.

A little over three months after the abolition of quotas, the ICFTU is producing this initial analysis of how the situation has changed in Cambodia. Admittedly it is too early to say exactly what fate awaits Cambodia's clothing industry in the long term, but one fact is already abundantly clear: Cambodia's respect for workers' rights which had provided it with a reputation as a high-quality producer, its sole competitive edge over a fair number of its rivals, is threatened by growing repression of freedom of association, a development that has now been clear for several months. Some people in Cambodia attempt to excuse this trend on the grounds of the need to combat tougher global competition in the textile sector since quotas were abolished, but these crackdowns in fact rather betray a lack of strategic vision on the part of the Cambodian government. It stands in direct contradiction to the government's stated intention to attract major buyers of clothing by respecting fundamental labour standards, when at the same time it tolerates repression of the only bodies capable of guaranteeing such respect, namely free trade unions.

This report is based largely upon interviews of trade union activists, factory owners, international observers and workers in the clothing industry during a research trip to Cambodia lasting from February to March 2005.

(1) *"Disaster looms with the end of the quota system"; Report by Samuel Grumiau for the ICFTU; November 2004*

THE IMPORTANCE TO CAMBODIA OF THE CLOTHING SECTOR

The clothing industry is vital to Cambodia's economy, accounting for over 80% of the country's exports and employing 65% of its industrial labour force. The value of these exports has risen from \$26 million in 1995 to \$1.9 billion in 2004, with around two-thirds of those exports going to the United States and most of the rest headed for the European Union. Some 270,000 people are directly employed in the country's two hundred or more clothing factories. Between 85% and 90% of them are young women aged between 18 and 25. According to some estimates, roughly one fifth of Cambodian women aged between 18 and 25 work in this sector.

Tens of thousands of other professional activities have been created or given a boost by the growth of the clothing industry: the sale of food in the vicinity of factories, the provision of public transport, clothes cleaning services, the renting out of accommodation to the young women working in the factories, and so on. Several observers maintain that at least 10% of the country's population of over 13 million people either directly or indirectly live off the clothing sector. Cambodia supplies some leading brands, including Gap (the country's biggest buyer), Nike, Levi's, Adidas, Banana Republic, Calvin Klein, Dockers, Wrangler and others.

The minimum wage paid in the clothing sector, \$45 a month, remains less than the estimated salary required to enable a Cambodian worker to live decently and at the same time support a family (\$80), but should be measured against the average salary of \$28 dollars a month paid to civil servants (such as factory inspectors) and against the average income of \$40 dollars a month earned by households in rural areas. On average, including overtime and various bonuses (such as \$5 for working every day in a given month), a clothing sector worker can earn as much as \$70 a month. The young women who came to the towns and cities to find work send a fair share of this pay back home to their families, who remain in rural areas, to cover their vital needs. One study conducted by the Asian Development Bank (see page 4) reported that on average a household receives between \$20 and \$40 dollars a month from each young female worker of the family employed in a clothing factory.

THE CURRENT SITUATION IN THE CLOTHING TRADE

The clothing sector in Cambodia is currently undergoing a process of natural selection. On the one hand there are well-managed companies that have understood the need to produce quality goods, respect labour laws and maintain a social dialogue. These companies are tending to grow or merge, thanks to an increase in or maintenance of the same level of orders from their buyers, won over by the quality of their output and the degree of respect for workers in their factories. At the other end of the scale come the usually smaller factories that have not invested in quality and neither heed labour laws nor engage in social dialogue. With a few exceptions, it is mainly companies of the latter type that have shut their gates or suspended their activities in recent months. In all, during January and February 2005, roughly 15,000 workers lost their jobs owing to such permanent or temporary closures. At present there is no way of knowing how many of these people have succeeded in finding work in the factories that opened during the same period. At least 4,000 jobs have been created by such newly opened factories, but these have not necessarily gone to those who were previously made redundant, for in Cambodia there are far more candidates (especially women) for jobs in the clothing industry than there are jobs available.

Closure or suspension?

The owners of several factories that have shut down in Cambodia over the last few months have claimed that the closures are temporary and can be attributed to a drop in orders. It is difficult, even for the Cambodian authorities, to gain a clear picture of their strategies, for sometimes the factories that open or are enlarged are owned by the same people or shareholders as other factories that close down or suspend their operations at the same time. The lack of clarity associated with temporary factory closures poses major problems for the affected workers, who do not know whether they will be given a job in the same factory again and therefore if they are better off staying nearby (and continuing to pay the rent on accommodation in the vicinity) so as to be there in the event that the factory reopens its gates, or if they would be better served forgetting that particular factory and going in search of work elsewhere, or returning to their home region.

Some employers are manipulating this precarious situation faced by workers, knowing full well that the factory will never reopen but announcing a temporary suspension of activities, supposedly to give them time to find money to be able to develop their activities or wait for new orders to come in. In the meantime they hope that some of the workers will find employment elsewhere or return to their distant villages, abandoning their claims for severance pay when the closure is officially announced.

Other employers use this technique when they want to fire a part of their workforce without paying compensation. They announce the suspension of activities for an unspecified period and, during this time some workers find work elsewhere or leave to return home. Then, when the factory re-opens, they aren't there and can be fired without the employers having to pay the same compensation as the workers would have been entitled to receive

if they had been available for work.

What becomes of clothing trade workers who lose their jobs?

There is no social security for people in Cambodia who lose their job. However, frequently there are four or five other people in a worker's family living off the wages they provide (see below). These families urge their daughters to leave their village and go to work in one of the factories in the major cities. The young women can return home to their families if they lose their job (especially in the rainy seasons, when more farm labourers are needed), but the clothing workers we met during our mission said that the pressure from their families to return to the cities and try to find work there is often intense. So if they return to their village it is merely a temporary measure, giving them time to see their family again and recover from the psychological blow of losing their job.

The vital importance of the money sent back home to their families by the young female workers every month was documented in a study conducted by the Asian Development Bank (ADB) in 2004 (2). That study found that a household receives an average of \$20 to \$40 a month from each family member employed in a clothing factory. The money is mainly used to pay for things the family urgently needs, but it is not enough to significantly improve the households' standard of living. The families interviewed by the ADB's researchers indicated that first and foremost the money they are sent is used to buy food, then to pay off debts, then to fund medical expenses and then to buy seed or fertiliser. In rarer cases they use the money to pay for their children's education, or save it to buy consumer goods. The study stressed that many villagers now depend on this regular source of income and that even if they haven't markedly improved their standard of living so far, they can still see a prospect for this happening. Hence the pressure brought to bear on the young women to go and find another job in the clothing industry if they are made redundant.

Sath Chantha, a young woman aged 20, worked for two years in a clothing factory in Phnom Penh before losing her job in October 2004 after restructuring measures were introduced. *"I spend all my days going from one factory to another to see if there are any job offers. I ask my girlfriends if they've heard of any jobs going in their factory. I do everything I can, but haven't found anything since October 2004. I could go back to my village, but I'd need some capital to set up with my family as farmers, and I didn't manage to save enough for that whilst I was in work. Now life's very tough for my family: when I was working I could send them \$20 to \$30 a month if I worked overtime, sometimes less or nothing when there was less work. Seven members of my family are largely dependent on the money I could send them from Phnom Penh, but now they no longer receive anything".*

Without a wage, people who lose their jobs cannot afford to continue paying their rent (roughly \$10 a month) for very long. And yet, as pointed out above, the number of jobs created by opening or enlarging factories remains lower than the number of jobs being lost, and every day fresh hopefuls leave their villages to travel to Phnom Penh in the hope of finding work in a clothing factory, a phenomenon that only intensifies the competition. It also boosts the girls' temptation to resort to 'friends' or 'facilitators' who, for a financial reward, promise to use their connections to find their 'clients' work, albeit with no guarantee of success. Several workers have testified that it takes between \$50 and \$80 for a woman to get hired and at least \$100 dollars for a man. Most people borrow this money or sell some of their family's land to enable them to pay.

As a last resort, some women who have lost their job in a clothing factory take up activities that are deemed dubious, for instance working as waitresses in karaoke bars or as 'beer girls'. The job of these 'beer girls' is to go up to clients in restaurants and pubs and promote a particular brand of beer. The brewers of that brand pay them on the basis of the number of bottles they incite their clients to consume. This type of job is looked down on because some clients have 'wandering hands', and only a minority of former clothing-factory workers agree to take on such work.

Contrary to some claims made in newspaper articles, there is still no sign of any major trafficking in former clothing factory workers to other countries. Campaigns run in the Cambodian media have frequently raised the dangers of trafficking and seem to have raised the awareness of a fair proportion of the female workers in question, who are suitably cautious about making any plans to go abroad.

Respect for workers rights: Cambodia's major competitive advantage

One of the only advantages Cambodia has, compared with its many rivals, is the country's better respect for workers' rights. This better respect is a direct consequence of a trade agreement signed in January 1999 between the US administration and the Cambodian government. That agreement, which only covered the textile and clothing sector, set out to improve the working conditions in those sectors in Cambodia. It applied for three years and was then extended until 31 December 2004. It provided for the possibility of Cambodia seeing its quota for exports of clothing to the United States go up each year if it could demonstrate that it had complied with its labour laws and with international standards governing workers in the sector.

Since the agreement entered into force, the ILO has been mandated to draw up a report twice a year on the respect shown these criteria. These reports are based on unannounced visits to companies carried out by a team of inspec-

tors employed by the ILO, who assess the working conditions based on a list of 500 criteria to do with Cambodia's labour laws and standards adopted by the ILO. The inspectors interview employers and workers separately, and also meet workers away from their factories, to escape the sphere of influence of the factory's management. Furthermore, they meet the trade union representatives in the factories they visit.

It was no easy matter to get Cambodian employers to accept ILO inspections to start with, but since they began a certain trust has been established, especially as the inspectors discuss their reports with the companies concerned before publishing them and because the export quotas regularly went up after the system kicked in. Whenever the ILO's inspectors ascertain irregularities at a company, they don't mention it in their subsequent report, but give the firm in question some time to adapt, failing which it will be 'named and shamed'.

The general consensus is that this system of monitoring by the ILO has helped to bring about a gradual improvement in the working conditions in clothing factories in Cambodia, though the conditions in question are still far from ideal. The project has helped to create an opening for dialogue between the relevant unions and the employers' association GMAC (Garment Manufacturers Association in Cambodia). GMAC maintains that it wants to negotiate with the unions as much as possible so as to avoid any interruption in production. It recognises the unions as partners and is urging its members to commit to such cooperation, whilst at the same time admitting that some companies are continuing to steer clear of any social dialogue.

The end of the quota system raised the spectre of the ILO's independent inspections ending, since the employers and the Cambodian government now no longer enjoy the prospect of being rewarded for their good behaviour by benefiting from higher quotas. But these fears have turned out to be unfounded, for the moment at least, as agreement has been reached to continue the inspections until the end of 2008. The reports published twice a year by the inspectors will be complemented in 2005 by a website which will make it easier to follow the step-by-step progress made by each company.

This agreement to extend the ILO's system of inspections is partly due to the emphasis placed by the major importers of Cambodian clothing on the importance of workers' rights and working conditions in their choice of suppliers. One survey carried out in 2004 by the World Bank of the 15 leading buyers of clothing made in Cambodia, who between them account for 45% of Cambodia's exports of apparel, demonstrated this link, finding that 60% of the respondents considered respect for labour standards to be just as important, if not more of a key factor, than prices, quality and delivery times. 86% said they believed that consumers view labour issues as either important or moderately important. They placed Cambodia top in ratings of five countries with regard to the respect shown for labour standards (ahead of Thailand, China, Vietnam and Bangladesh).

Although it shows the best respect for its workers, Cambodia comes off badly on other fronts in comparison with its main rivals, the following being its main disadvantages:

- Virtually all the raw materials required for clothing production in Cambodia have to be imported, resulting in time and money being lost owing to the inefficiency of the procedures associated with importing and exporting goods and the country's transport infrastructure;
- Widespread corruption;
- Corruption among the country's judiciary means that the rule of law is far from firmly anchored in Cambodia, which makes investing there insecure;
- There is a dearth of Cambodian staff qualified to manage factory departments or production lines (which means they have to be brought in from abroad);
- The high cost of electricity.

Another scarcely reassuring factor for Cambodian workers anxious about the post-quota situation is that the clothing industry in Cambodia is almost entirely in the hands of foreign investors, most of whom are based in East Asia (including Hong Kong, Taiwan and China). They generally own additional factories in other Asian countries (increasingly in China) and therefore have no special interest in Cambodia, which wouldn't be the case if they were Cambodian nationals (as is more the case in Bangladesh, for example).

More pressure inside factories

Despite the ILO inspections, many Cambodian trade union activists have noted a shift in the employers' attitude over the past year or more. The end of the quota system and the trade agreement between the USA and Cambodia is giving employers the upper hand in the factories. Many workers are afraid of complaining about violations of their rights, knowing full well that it will be extremely difficult to regain employment if they lose their job. Many employers are brandishing the threat of tougher competition from China since the end of quotas to justify lower pay. They maintain that competition from countries with lower production costs is forcing them to cut salaries in Cambodia, and scare their workers by citing examples of factories that have shut down. They demand, among other things, a reduction in the bonuses paid for night shifts and overtime work.

This pressure exerted by employers within factories is not limited to salaries alone. Union organisations like CCAW-

DU (Coalition of Cambodian Apparel Workers' Democratic Unions), FTUWKC (Free Trade Union of the Workers of the Kingdom of Cambodia), CLUF (Cambodian Labour Union Federation) and NIFTUC (National Independent Federation Textile Union of Cambodia) claim that working conditions are on the decline and that union officials who try to 'stop the rot', for instance by calling strikes, are increasingly being subjected to harassment or simply fired. CCAWDU President Ath Thun said: "At Flying Dragon 3 for example, a company employing around 1,200 workers, we have 300 members and they are telling us that despite working overtime their salary has dropped by between 10 and 20% because their employer has lowered the amount paid per item of clothing produced. In December 2004, three leading members of our union employed by the company lost their jobs. This repression of union activists is spreading. For instance, some employers try to change contracts of unlimited duration into fixed-term contracts since it is easier to offload union activists in this way. Others fail to heed legislation suggesting that in the event of restructuring, companies should apply the 'last in, first out' principle, and instead target workers affiliated to unions. Workers who wish to join an independent union are also subjected to extensive verbal pressure from managers. In the past, when we were faced with cases of this kind, we could turn to the government, which brought pressure to bear on the employer, but that is not the case at present, especially in the months leading up to the abandonment of the quota system. The disappearance of quotas is leading to a decline in the respect shown towards trade union rights that are recognised by international conventions".

Appealing to the legal authorities or labour inspectorate stands very little chance of success, given the corruption rampant within the respective systems. In the past workers could threaten to report abuses to the American embassy, which would mean the employers running the risk of not seeing their quotas increased, but that is no longer the case. Apart from the ILO's inspections, one of the only effective ways of exerting pressure on the employers is via major buyers, but it is not as easy for Cambodian trade unions to get in touch with such companies in distant countries as it was to contact the US embassy in Phnom Penh. Moreover, there is no guarantee that these major buyers will show an interest in the situation denounced by the unions. In this regard, the assistance provided by international trade union organisations is extremely valuable by way of ensuring that the buyers become concerned at the threat to their reputations from using employers that violate workers' rights.

Perverse effects of corruption

Whilst corruption is one of the main hurdles to business cited by clothing sector employers in Cambodia, it also impacts indirectly on the situation faced by workers in a large number of factories. The corruption referred to takes several 'classic' forms (such as 'gifts' of money at all levels), and also affects the recruitment of personnel, especially security staff. For instance, several entrepreneurs and analysts of the Cambodian economy said that when a factory opens in Cambodia, it can be visited by, say, the local police chief or an army officer who explains that to monitor the workers properly the factory should employ additional security guards and that 'by coincidence' their brother (or cousin, brother-in-law or whoever) is an unemployed ex-army man who would be ideally suited to such work. The factory boss is then strongly encouraged to hire this 'providential' person, who will at the same time serve to ensure a certain 'sympathy' in the attitude shown by the local police in the event of any claims made by the workers. If the employer concludes that there is no point hiring these guards, it is understood that he could be targeted by 'excessively zealous' officials, or that the authorities will not cease to harass him even if he respects his workers.

A fair number of security guards hired under such circumstances have no training in dealing with factory life. Many of them have no knowledge at all of the legal provisions governing labour or of how to manage security in a peaceful manner in the event that the workers have something they wish to contest. Consequently, these guards may resort to acts of violence against workers without the factory boss really wanting this to happen. However, the independent unions present in the factory where such an incident occurs find it very difficult to convince the boss to punish security guards who are guilty of such abuses, because the bosses are fearful of reprisals by the very people who more or less forced them to hire the guards in the first place. Consequently, in the absence of any leverage in these factories by major buyers, the prospects of securing a punishment are remote.

Legal or illegal strikes?

The garment manufacturers' association GMAC points to illegal strikes as a factor explaining the closure of some clothing factories, but admits that not all employers use the same method of negotiation when faced with problems. The procedure to follow before being able to go on strike legally is very long, so many workers have a tendency to down tools and go on strike immediately. In the event of a conflict between workers and employers in the textile and clothing sector, Cambodian legislation provides for recourse to arbitration by Ministry of Labour, which then has to intervene within 15 days. If this arbitration fails, the Ministry of Labour refers the case in question to an Arbitration Council, a tripartite body that has 15 days to hand down an 'award' which, depending on the prior agreement reached by the parties in question, may or may not be binding. Only after these two procedures can a strike be called legally, provided that the employer and Ministry of Labour were notified seven working days in advance and that the strike action was approved by the workers in a secret ballot.

Several Cambodian trade unions emphasise that this procedure takes too long and, rightly, point out that it does not comply with internationally recognised standards regarding the right to strike. For example, if a factory secu-

riety guard has behaved violently towards workers and the employer does not punish him, it is difficult to ask staff to work as if nothing had happened throughout the weeks taken up by the aforementioned procedure. "Workers' patience has its limits", emphasised CCAWDU President Ath Thun. "When, after weeks of hard toil they see that their salary has been cut, for example, we may find it hard to contain their anger. Sometimes they go off on strike on their own initiative, in which case we try to offer them the best support we can".

MOUNTING REPRESSION OUTSIDE FACTORIES

While the disappearance of quotas and of the termination of the trade agreement between the United States and Cambodia has so far had a limited (though real) impact on working conditions inside factories, the consequences outside the factories are far more serious, with the repression of trade unions having been on the increase for several months already. In 2004, the entire year was marked by serious acts of violence and intimidation against free trade unions, and the frequency of such incidents rose during the second half of the year. Since the ILO inspections stop at the factory gates, they are powerless in cases of violence committed outside.

FTUWKC alone lists 15 cases of this type. The most serious involved the killings of its president, Chea Vichea, and of one of its officials in the Trinongal Komara factory, Ros Sovannareth. Several other FTUWKC militants have been attacked, including Chhit Channy, the union's leading official at the Phak Sun factory, who was beaten up by persons unknown on 13 April 2004 after lodging a complaint against the company, or Nep Vicheka, the union's leader at the Sportek factory, who was beaten about the head by two men riding a motorbike on 10 November 2004 after some negotiations had failed.

The leaders of independent unions explain that police violence against peaceful demonstrations has also been stepped up, and now begins as soon as the first signs of a gathering become apparent. This was certainly the case on 5 March 2005, when roughly 250 workers gathered in front of the Sam Han (Cambodia) Fabric Co Ltd clothing factory in Phnom Penh to mount a peaceful protest calling for the handover of severance pay which Cambodian law entitles them to receive following the closure of their factory on 12 February 2005. As often happens, they weren't met by their Korean former employer, but by nearly 60 armed police officers wearing helmets and carrying shields. The police started off by hurling insults at the workers which soon turned into threats: "You have no business here, you bunch of f---s, so scram or we'll charge".

They charged shortly after. "We ran away as fast as we could, but two young workers were caught by the police, who hit them with electric batons and rifle butts", said Sar Mora, one of CCAWDU union leaders active at the Sam Han factory. "Our two colleagues caught up with us later, one with a bleeding mouth, the other with some very sore ribs. However, they didn't go to a doctor or to the hospital, because having lost their jobs they can no longer afford to do so". And they won't be complaining about the police either, because to do that they would have to go to the police themselves. This is not an easy thing to do anywhere, let alone in Cambodia, where the judiciary is tainted by widespread corruption (see the annex containing the full text of an article published by ICFTU on the subject of such violence).

This wasn't the first time that workers at the Sam Han factory had been subjected to violence perpetrated by Cambodian police. On 22 February 2005, the police had already used tear gas and water canons against them before charging. Sok Chantha, a 40-year-old former Sam Han factory employee was severely beaten by men in uniform. "One policeman struck me in the chest with his rifle butt, then on the back. My skin instantly turned black where he hit me".

Other unions are campaigning for respect for workers who have been subjected to violence these past few months. "The repression has become far worse since the beginning of 2004", emphasised NIFTUC President Morm Nhim. "In many instances it is difficult to communicate cases of repression abroad because few union activists speak any other language than khmer. I, for one, have lost count of the number of beatings I have received from the police since 2004. They use electric batons, fire shots into the air to scare the workers gathered for a demonstration, and sometimes even plough through crowds of demonstrators to force us to disperse".

This worsening repression of peaceful demonstrations is not limited to unions, but also affects NGOs and political opposition parties. "The crackdown on demonstrations has effectively withdrawn the fundamental right of Cambodian citizens to freedom of assembly, and its continuance is a threat to democratic society in Cambodia", noted the Cambodian Action Committee for Human Rights in a report published in November 2004 (3). The committee explains that the Phnom Penh municipality in particular refused virtually all NGO and opposition party requests to exercise their right to assemble and demonstrate peacefully, except during a one-month period in the run-up to the July 2003 elections. The ban applied both to actions concerning World Environment Day and other issues such as petrol prices or working conditions in factories, all of which are deemed threats to national security and public order.

"Demonstrations which do go ahead after official authorisation is denied are regularly dispersed with excessive force by the police and military police. Some crackdowns have involved hundreds of heavily armed police officers, carrying guns, electric batons or truncheons, who have launched into crowds of peaceful demonstrators and beaten or arrested those involved (...). In addition, protestors face intimidation and violence from counter-demons-

trations by pro-government groups such as the so-called 'Pagoda Boys'." Some sources claim that the police stood idly by as these groups attacked the demonstrators. The report by the Cambodian Action Committee for Human Rights deplores the fact that in the light of such frequent violence and intimidation, the defenders of human rights, militant politicians and ordinary citizens of Cambodia have been fearful of organising demonstrations or even participating in them.

For several years now the Cambodian trade unions have been denouncing the use of troublemakers to break up demonstrations. Just a few months before FTUWKC President Chea Vichea was killed in a Phnom Penh street in January 2004, he told ICFTU's Trade Union World: "*When we carry out protests, such as demonstrations, the authorities send members of the 'Pagoda Boys', a group of young people with close links to the ruling party, who harass and sometimes attack us*" (4).

Denouncing these gangs of thugs has never prompted any steps presenting their deployment for purposes of repression. "*It is extremely difficult to find out and report exactly who is behind these gangsters*", explained the president of one clothing union who preferred to remain anonymous, but "*everyone in Cambodia knows that most employers in the clothing trade have connections with people in high-up positions who favour the factories. Whenever workers try to negotiate with their employers, profits are under threat. So the highly placed individuals pay the troublemakers to intimidate workers at rallies*".

This serious violence means that some workers no longer dare to attend peaceful demonstrations organised by the unions. The workers know that people leading demonstrations have very little chance of being hired by other factories if they are fired. The women who used to work at the Sam Han factory and who were assaulted by the police in February and March 2005 suffered this sad fate. They explained that if they tell a potential new employer that they used to work at Sam Han, he will refuse to take them on. "*In the past, having worked for Sam Han was a good reference for finding a job elsewhere, but now nobody wants to have anything to do with us and we have a reputation as agitators*", said former Sam Han employee Sok Chantha, before continuing: "*I managed to find another job, but 10 days later I was fired when my new employer noticed that I'd worked at the Sam Han factory*".

Illegitimate recourse to the courts

One new repressive technique used against the unions has recently been deployed by some employers and involves taking them to court if they strike to see them given a jail sentence or fined a large sum of money. Employers use the financial damage they suffer owing to a strike to attack trade union leaders. Most astonishingly, they invoke the criminal code, not the labour code, when going after workers who have done nothing 'wrong' apart from stage a peaceful strike. This kind of tactic runs counter to internationally recognised principles governing the right to strike.

"The current trend is for employers to go to court and try and secure heavy penalties as soon as a union activist commits the slightest error", explained CLUF President Som Aun. "*In the past, when a problem arose the employer called on the labour inspectorate or the Arbitration Council and we sought a negotiated settlement. If the new trend continues, I fear that in the long run nobody will wish to commit themselves as a union activist to defending the workers, because doing so will be associated with too many risks. The attitude taken by the bosses is unfair: for years they have been riding roughshod over labour legislation, but the unions have always tried to settle conflicts by calling in factory inspectors or the Arbitration Council before taking matters to court. They, on the other hand, are taking us to court immediately*".

On 12 March 2005 five unions organised a press conference to denounce this practice of referring matters to the courts and invoking the criminal code. They explained that by initiating legal proceedings to demand heavy penalties against trade union leaders who called a strike, the employers are endeavouring to frighten workers into no longer daring to defend themselves against violations of their rights. Several recent verdicts that have been handed down give cause for concern:

On 10 February 2005, Sok Vy, who heads up a union affiliated to CCAWDU in the Fortune Garment Co. clothing factory in Kandal province which employs 2,700 workers, was given a 14-month jail sentence suspended for 5 years in the wake of a strike that took place at the factory from 2 to 5 June 2004. The sentence was divided into 12 months for "inciting others to commit criminal acts" and 2 months for having damaged factory equipment. Many eyewitness accounts given at the trial stated that Sok Vy had broken nothing whatsoever in the factory and the judge admitted that there was no evidence of this, but that did not prevent him from condemning him for allegedly having done so. Witnesses also stated that Sok Vy had not yet been in charge of the union affiliated to CCAWDU at the time of the strike, and was rather merely the workers' spokesman, having asked to speak on their behalf since he speaks Chinese, as does the factory's owner. Counsel representing the factory, on the other hand, maintained that the Fortune Garment Co. had lost \$300,000 dollars during the strike, but produced no evidence of this.

A similar case concerns the Hana factory, which employs around 750 workers in Kanda province. "*On 15 July 2004, a short strike had been staged to force the employer to respect eight articles of labour law that he was violating*", explained NIFTUC President Morm Nhim, NIFTUC having one union represented at the factory. "*Two days later, after nego-*

tiations between the employer, our union and the labour inspectorate, an agreement was reached under the terms of which the employer pledged to respect the eight points of law in question. Subsequently, all the employees returned to work on 18 July, but the employer had not kept his promises and even went further in his violations of the eight articles of law in question. So a second strike began on 14 August. Then, on 17 August, Hana suspended two trade union leaders, Chhum Phao and Nuth Sary (respectively the president and secretary of our affiliate in the factory) and lodged a complaint against them with the Kandal provincial court, claiming \$230,000 dollars for having incited the workers to strike. During the proceedings, Hana even demanded \$1 million, albeit without submitting any documents proving that it had suffered this extent of damage as a result of the strike. On 9 March 2005, the judge ruled that the strike had been illegal and condemned three union activists (the president, vice-president and secretary of our affiliate) to pay a fine of \$300,000. That is unjust, because the legislation makes no provision for that kind of penalty when the factory's property is not damaged. Furthermore, if the employer had honoured his commitments the strike in question would never have taken place".

(2) « *Socio-Economic Survey of Garment Employees in Cambodia (SESGEC) – Phase II*, Asian Development Bank, Manila, 2005

(3) "Crackdown on Gatherings and Demonstrations by Phnom Penh Authorities since January 2003"; Briefing Paper by the Cambodian Human Rights Action Committee (CHRAC), a coalition of 18 local NGOs working on human rights issues in Cambodia; November 2004

(4) "Cambodia: what does the future hold for textile workers?"; Trade Union World Briefing; ICFTU; January 2004

CONCLUSIONS

Working conditions inside Cambodia's clothing factories have not seriously deteriorated in the few months since the quota system was discontinued. The monitoring system set up by the ILO is to a large extent to thank for this, as are the announcements made by numerous buyers to the effect that showing better respect for workers is a key element in their decision to continue using Cambodia as a supplier for the time being. Having said that, more and more employers are pressuring their workers to accept lower wages. The salaries in question, which so far remain slightly higher than those paid in neighbouring countries like China or Vietnam, do not permit the workers to attain a decent standard of living.

Furthermore, beyond the textiles factory doors, the repression of workers and trade unionists stepped up in 2004 and early 2005. The authorities have violently put down strikes and demonstrations in a bid to satisfy employers anxious of being unable to deliver orders to their buyers on time. Although these buyers, which include some of the world's best known clothing companies, are telling their Cambodian suppliers that showing respect for labour standards is an important factor in their purchasing decisions, at the same time they are putting them under pressure to lower their prices and shorten their delivery times.

Yet through repression of the rights of workers to form unions, demonstrate peacefully or go on strike, the Cambodian authorities are undermining the advantages on which the country's economy depends. Cambodia's better level of respect for workers' rights inside factories provide its only significant edge over its rivals. If the Cambodian authorities really want to help employers in the clothing sector to survive in a quota-free trade environment, they would be better off trying to dismantle the major obstacles to business for which they are directly responsible, such as the very high level of corruption among civil servants and the excessive red tape to which imports and exports are subjected.

The pressure brought to bear by unfair competition from China is one of the key factors behind the rise in tension in Cambodia. The pitiless repression of any independent union activity in China enables businesses in China to offer far more advantageous prices and delivery times than their competitors. Such exploitation of Chinese workers is helping to reduce the prices paid to suppliers the whole world over, which is in turn putting pressure on those suppliers to scale back the rights of their workers in a bid to remain competitive. Consequently, China is, in effect, dragging down workers' rights worldwide, a situation that the international trade union movement has strongly denounced both from solidarity with Chinese workers and owing to the knock-on effects it is having in countries such as Cambodia.

The report on world textiles trade published by the ICFTU in November 2004 emphasised that since the WTO was the international body responsible for world trade and had overseen the liberalisation of world trade in textiles and clothing by ending the quota system, it now had a responsibility to consider the social consequences of such actions and to make recommendations for future policy too.

The WTO urgently needs to find an effective way of preventing the use of repression against workers as an illegitimate tool for boosting exports, as is occurring in China and in export processing zones in general. The government of China appears totally disinterested in the dramatic social consequences of its unfair practices for other developing countries, as was shown at a meeting of the WTO Council on Goods held on 1 October 2004, when several countries (Bangladesh, Mauritius, the Dominican Republic, Fiji, Jamaica, Madagascar, Sri Lanka, Mongolia, Nepal and Uganda) submitted a proposal for action to be taken by the WTO regarding the impact on their economies of the abolition of quotas. These countries asked the WTO to draw up a study aiming at identifying costs arising from the quota phase out, and to establish a work programme that would enable them to discuss possible solutions. However, no such action programme could be adopted owing to opposition by several WTO members, in particular China. Following negotiations between members of the WTO, it would seem that the latter's aid will be limited to two areas: (i) national technical assistance seminars on textiles and clothing, which will be held upon request by developing countries, and (ii) a study, undertaken by the WTO secretariat, on ways of improving developing countries' competitiveness in the textiles and clothing sector. This study focuses on rules of origin, coherence programmes of the World Bank and IMF, and technical assistance.

This is a small step in the right direction, but is not enough. The WTO must conduct an in-depth analysis of the impact on employment and workers' rights of the liberalisation of trade in textiles and clothing. It must adopt recommendations on how to prevent future violations of workers' rights in this sector and more generally. The 6th Ministerial Conference of the WTO (Hong Kong, 13-18 December 2005) should reiterate the commitment of WTO members to respect core labour standards, and authorise the WTO secretariat to begin a work programme to look at the labour and social impact of trade liberalisation, including its implications for core labour standards. In view of its competences and experience in this area, the ILO should evidently play a key role in this issue. This could also be implemented as a "policy coherence initiative" in line with the recommendations of the World Commission of the Social Dimensions of Globalisation. As this report has shown, without such measures the prospects for those countries that seek to take a higher-standard path to development are bleak indeed.

APPENDIX

ICFTU ONLINE...

Cambodia: Another peaceful worker demonstration meets a tough police crackdown

Phnom Penh, 7 March 2005: On Saturday morning, the ICFTU witnessed first-hand a barrage of police violence against a peaceful protesters in Cambodia during a demonstration which brought together approximately 250 workers in front of the Sam Han (Cambodia) Fabric Co Ltd clothing factory in Phnom Penh. As on many occasions subsequent to February's closure of the Sam Han factory, demonstrators gathered to hold a peaceful protest in a bid to secure the severance pay to which they are entitled under Cambodian law. However, workers were not met by their Korean former employer, but rather by nearly 60 armed police officers wearing helmets and carrying shields. The police started hurling insults at the workers which soon turned into threats: "You have no business here, you bunch of f -----; get out of here or we will charge". Police charged on protesters merely one hour later, breaking up the demonstration in the same violent manner with which they have handled previous protests held since the factory closed on 12 February. "We ran away as fast as we could, but two young workers were caught by the police, who hit them with electric truncheons and rifle butts", said Sar Mora, a union leader at the CCAWDU (Coalition of Cambodian Apparel Workers Democratic Union) which was active at Sam Han factory. "Our two colleagues caught up with us later, one colleague's mouth was bleeding, and the other had very sore ribs. They didn't go to a doctor or to the hospital however, because having lost their jobs they can no longer afford to do so". In their personal accounts to the ICFTU, the workers said that they would not be making complaints to the police because to do so, they would have to confront the very authorities who reacted so violently towards them.

The Sam Han factory employed around 7,000 people until it first closed on 28 October 2004. "Work was suspended for two months ", says Sar Mora. "On 3 January 2005, the factory doors reopened and 5,000 workers were given back their jobs, but on 5 February - pay day - the employer told us that the company had no money to pay us. Instead they asked us to wait for a week, until 12 February, and we agreed to do so, just as we had done on several previous occasions. On 11 February, the employer, a South Korean, returned home, supposedly to release the required funds. We went on strike on 12 February to demand the payment of our wages and the severance pay to which we are entitled but on 14 February the authorities told us that Sam Han had been declared bankrupt. The government agreed to pay our wages for January and early February on the employer's behalf, but we're also entitled to severance pay and are demonstrating peacefully in an attempt to keep up the pressure in this regard".

The workers at Sam Han have been confronted with police violence throughout their strike activity. As a result, the workers who even dare to demonstrate is decreasing all the time. According to the union CCAWDU, more than 40 workers have been injured in the various waves of repression, some seriously - one young worker, aged 23, fell into a coma having been beaten by police. Sok Chantha, a former employee at the Sam Han factory and a CCAWDU activist, is just 20 years old but she was also handled aggressively by the authorities. "It happened at the protest held on 22 February where the police used tear gas on us and aggressive force against anyone they caught. One policeman hit me with his rifle butt on the chest and then on the back. My skin instantly turned black where he hit me, but I didn't have the money to go and see a doctor".

Workers at the Sam Han factory had in fact been in fear of losing their jobs for months prior to the factory's closure. "We noticed that the factory's usual clients, like GAP and Walmart, were placing fewer and fewer orders for clothes", said Sar Mora. "But our working conditions had improved since GAP started placing orders with our boss". Today, those workers who were formerly employed at the Sam Han factory are finding it extremely difficult to make ends meet. The clothing sector, the sole industry which has succeeded in developing in a country racked by corruption, has been under tremendous pressure since the quota system ended on 1 January. The system had previously protected Cambodia and many other countries against unfair competition from China. In fact, today some families have fallen into debt as a result of paying the \$100-dollar bribe required to secure work at a factories similar to Sam Han's. "In the past, having worked for Sam Han was a good reference for finding a job elsewhere", explained Sok Chantha. "Now it puts off other employers who see us as agitators. I managed to find another job, but 10 days later I was fired when my new employer noticed that I had worked at the Sam Han factory".

The ICFTU condemns the increasingly repressive policy pursued by the Cambodian government against workers who peacefully exercise their right to freedom of expression and freedom of association. The right is increasingly being denied in the clothing sector following the end of the commercial agreement between the United States and Cambodia under which the South East Asian country could increase its exports to the US by improving its respect for labour laws and international labour standards. However, 2004 saw the murders of two independent trade unionists were killed in Cambodia - Chea Vichea, the President of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) who was assassinated on 22 January 2004, and Ros Savannareth, another leading member of FTUWKC, was killed on 7 May 2004. These murders form the centrepiece of an ICFTU complaint submitted to the International Labour Organisation (ILO) last year. The ICFTU said that unless the Cambodian authorities immediately stop disproportionate levels of violence against trade union leaders and workers, which, in the past, have resulted in fatalities, and launch serious investigations into existing cases of excessive violence, the country runs the risk of erasing one of the few advantages that it previously enjoyed over its rivals (for example China and Vietnam) in the clothing sector, namely a somewhat better respect for workers' fundamental rights.

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LIST OF ABBREVIATIONS

ADB : Asian Development Bank
CCAWDU : Coalition of Cambodian Apparel W.D.U.
CLUF : Cambodian Labour Union Federation
FTUWKC : Free Trade Union of Workers of the Kingdom of Cambodia
GMAC : Garment Manufacturers Association in Cambodia
ILO : International Labour Organisation
NIFTUC: National Independent Federation Textile Union of Cambodia
WTO : World Trade Organisation

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