

MEMORANDUM OF UNDERSTANDING

Between

Better Factories Cambodia and (name of factory)

1. *Better Factories Cambodia* (formerly known as the ILO Garment Sector Project), was established in 2001 to help Cambodia's garment sector achieve and maintain improvements in working conditions. The project grew out of a trade agreement between the United States and Cambodia, which set an export quota for certain garments from Cambodia to the United States. Under the agreement, the US allocated bonus export entitlements to Cambodia, as long as the country made gains in improving working conditions.

2. In order to measure and ensure gains in working conditions, *Better Factories Cambodia*, in cooperation with participating Cambodian garment factories, has monitored and reported on working conditions according to national and international standards, helped factories to improve their productivity, and worked with the Government and international buyers to ensure a rigorous and transparent cycle of improvement.

3. The Cambodian-US trade agreement expired on 31 December 2004, as did a global Multi-Fibre Agreement (MFA), which had imposed limits on imports to the United States and the European Union countries from key low-cost manufacturing countries such as China and India. With the expiration of these agreements, Cambodia is subject to global competition. In order to remain competitive, Cambodian garment factories now must somehow distinguish themselves in the market.

4. Cambodia has set itself apart to some extent by continuously improving working conditions, and by facilitating access to reliable information regarding factory compliance with international and national labour standards. *Better Factories Cambodia* will seek to build upon the progress that already has been made in both of these areas, but the cooperation of Cambodia garment factories is critical to the project's continued success.

5. This memorandum of understanding and its attached registration form provide the framework for cooperation between *Better Factories Cambodia* and individual garment factories that wish to participate in the project.



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6. By signing this memorandum of understanding and providing the information required for registration, (factory name)..... agrees to:

- a. provide full access to *Better Factories Cambodia* monitors to factory premises, including surrounding areas (such as dormitories), as well as to all relevant documentation required by monitors in order to perform their tasks;
- b. allow *Better Factories Cambodia* monitors to freely interact with shop stewards, union representatives, factory workers and other relevant persons, both inside and outside factory premises;
- c. provide access as specified under paragraphs a and b above during both announced and unannounced factory visits;
- d. refrain from any acts or omissions that may hamper the ability of *Better Factories Cambodia* monitors to perform their tasks;
- e. undertake to improve working conditions.

By signing this memorandum of understanding, *Better Factories Cambodia* agrees to:

- a. execute the monitoring system in accordance with Annex 1, taking into account any future recommendations of the Project Advisory Committee;
- b. carry out monitoring visits in a fair and objective manner;
- c. attempt to minimize any disruption to factory operations during monitoring visits;
- d. keep confidential basic commercial information regarding business operations that is not related to factory compliance with core labour standards or Cambodian labour law;
- e. consider, in good faith, any allegation of misconduct by a *Better Factories Cambodia* monitor in the execution of his/her duties;
- f. In case of any disagreement over the interpretation of the present memorandum of understanding, the parties shall make an effort, in good faith, to reach a common understanding. In the absence of such a common understanding, the matter shall be referred to a mutually agreed upon arbitrator.

Garment factory representative

Name:

Date:

Better Factories Cambodia representative

Name:

Date:

ANNEX 1

Garment Factory Monitoring Process *Better Factories Cambodia*

1. Background

One goal of *Better Factories Cambodia* is to ensure that garment factories in Cambodia comply with internationally recognized core labour standards and the Labour Law of Cambodia. The project has developed an independent monitoring system designed to generate reliable information on working conditions in participating factories. Monitoring is conducted by monitors who are recruited and trained by *Better Factories Cambodia*, and who operate under the direction of the Programme Assistant and the Chief Technical Advisor (CTA). A Project Advisory Committee (PAC) discusses the functioning of the monitoring system and provides guidance and evaluation.

Better Factories Cambodia has developed an information management system (IMS), which is a computerized system for collecting, storing and analyzing data. The IMS enables monitors to store the information they collect during monitoring visits directly into laptops specifically designed to collect data (Tablet PCs).

2. How the monitoring process works

- 2.1 Factories voluntarily register with the project by providing a completed, signed registration form, with related documents, to the *Better Factories Cambodia* office in Phnom Penh, Cambodia. By registering with the project, factories agree to submit to unannounced and announced monitoring visits by project monitors.
- 2.2 *Better Factories Cambodia* employs monitors, who conduct monitoring visits in teams of 2. All monitors receive appropriate training on national and international labour standards and inspection techniques.
- 2.3 The monitoring teams work as follows:
 - The Programme Assistant schedules monitoring visits, using information generated by the IMS.
 - The monitors conduct monitoring visits, which may include discussions with management, workers, shop stewards, and union leaders; observation of factory conditions; and collection and review of documents.
 - The monitors use Tablet PCs to record their findings during factory visits. The use of Tablet PCs enables monitors to complete reports quickly and accurately.
 - A copy of the payroll and working hours information must be provided on the day of the visit. Factories are given one week to provide copies of any additional documents requested by monitors during the factory visit.

- Monitors complete monitoring reports upon receiving all necessary documents, or upon expiration of the time allotted for a factory to provide documents.
- Monitors present their reports to the CTA for approval.
- Finalized, approved reports are uploaded to the IMS.
- Factory management is notified by email that a new report is available.¹
- Management can receive reports by logging onto the *Better Factories Cambodia* IMS website, at ims.betterfactories.org. A password is required to access factory reports.

2.4 A checklist approved by the Project Advisory Committee identifies the issues covered during monitoring visits, including the following:

Basic worker rights:

- Freedom from child labour
- Freedom from forced labor
- Freedom from sexual harassment
- Freedom of association and collective bargaining
- Non-discrimination

Other working conditions:

- Wages
- Hours of work
- Leave
- Occupational safety and health
- Labor relations

Monitors also record the level of cooperation by management during a factory visit.

2.5 The indicators for freedom of association and collective bargaining in particular, focus on the process of workers exercising these rights at the workplace. The monitors may witness trade union elections, shop steward elections, and collective bargaining sessions. They also consider any complaints by workers of interference in union activity or anti-union actions in violation of Cambodian labor law. This information is reflected in factory monitoring reports.

2.6 The monitors do not have law enforcement powers. This is the role of labour inspectors from the ministry of labour. Their role is to verify the conditions in participating factories, to report on them and to provide information and advice on improving compliance. The CTA oversees the monitoring and remediation programs, approves the monitoring reports, and works with the social partners to ensure a continuous cycle of improvement in working conditions.

¹ Factories that do not have access to email or the worldwide web may have their factory visit reports delivered to the factory.

3. Scheduling of visits

The project seeks to visit each participating factory at least twice per year.

4. Resolving Disputes Regarding Reports

Once the CTA has approved a monitoring report, the report is made available to the factory. Factories may request advice from monitors in addressing compliance issues identified in monitoring reports. Factories also can lodge objections to findings in their reports online within 21 working days, by logging onto the *Better Factories Cambodia* IMS website, at ims.betterfactories.org. Objections will be visible to buyers who have been granted access by factories to the reports.

5. Reporting

Better Factories Cambodia provides individual factory reports as well as synthesis reports in Khmer, Chinese or English. Individual factory reports include graphs tracking progress on compliance over time, and comparing this to the industry average. Factory reports also include suggestions to address specific non-compliance issues, and track progress implementing these suggestions. Individual factory reports are accessible only to the factory and to any buyers or others granted access in writing by the factory (e.g. buyers, vendors).

Synthesis reports are publicly available, and include, for example, easy-to-read graphs showing progress by individual factories on compliance, key industry-wide compliance issues, and data regarding the number of workers employed in garment factories.