

November 26, 2001

Ambassador Robert Zoellick
Office of the U.S. Trade Representative
Washington, DC

Dear Ambassador Zoellick:

We write in relation to the Textile and Apparel Trade Agreement between the US and Cambodia, entered into on January 1, 1999. As you may be aware, that agreement is due to expire on December 31, 2001. We urge you to renew and refine the agreement for a further three years.

Background to the US-Cambodia Agreement

In January 1999 the US Government entered into a three-year bilateral textile and apparel agreement with the Royal Government of Cambodia (“US-Cambodia Agreement”). The Agreement was executed pursuant to the President’s power to negotiate textile agreements (7 USCS §1854).

The US-Cambodia Agreement provides for a quota on textile and apparel imports from Cambodia and for reduced tariff rates on US exports to Cambodia. Furthermore, just as the recently approved trade agreement between the US and Jordan connected trade, labor and the environment, the US-Cambodia Agreement makes a link between trade and labor rights. Specifically, clause 10 of the Agreement creates an incentive for improving working conditions by providing for an annual increase in quota of up to 14% if conditions are found by the US Government to “substantially comply” with Cambodian labor law and core labor standards.

The Agreement also requires the Cambodian government to implement “a program to improve working conditions in the textile and apparel sector” and the US government to help Cambodia finance such a program. After much negotiation, the US and Cambodian governments have both supported the commencement of a \$1.4 million ILO Garment Sector Working Condition Improvement Project to which the US government has contributed \$1 million. The project monitors Cambodian apparel factories and produces public reports on working conditions on a quarterly basis. It commenced earlier this year and should be issuing its first report in the near future.

Impact of the US-Cambodia Agreement: Positive but Unfinished

The US-Cambodia Agreement has been credited with creating a large increase in US exports to, and imports from, Cambodia. The value of textile and apparel imports from Cambodia increased by almost 200% during the first two years of the Agreement. US brands like Gap, Polo Ralph Lauren, Dress Barn, Anne Taylor Loft and Sag Harbor have increasingly relied on Cambodian workers to fill their consumer demands. Moreover, US companies exported approximately 225% more textiles and apparel to Cambodia over the past two years.

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Furthermore, the labor incentive clauses in the Agreement have, at least in part, caused the growth in US purchasing from Cambodia to be accompanied by improvements in the working conditions for Cambodians. In his testimony to the US Senate Committee on Finance on June 26, 2001, Mark Levinson, Director of Research and Policy at UNITE (Union of Needletrades, Industrial and Textile Employees), stated that “labor activists in Cambodia report that the agreement is responsible for opening some political space for workers and unions to assert their rights.” The Lawyers Committee’s own experience in Cambodia supports this observation. Furthermore, the US government granted a partial increase of quota (5%) in May 2000, recognizing that improvements had been made - but that there was still more to be done before substantial compliance was achieved. The US State Department Human Rights Report for 2000 bears out this conclusion.

Thus the effects of the US-Cambodia Agreement so far have been positive: US exporters have increased access to the Cambodian market; US apparel companies have developed new avenues of supply; much-needed employment opportunities in Cambodia have been created; and the conditions under which Cambodian workers operate have started to improve. However, the expiration of the Agreement threatens to undo the good work that has already commenced in the area of workers rights improvements.

Reasons to renew the US-Cambodia Agreement

(a) US leadership in trade

Responsible leadership by the United States in the globalized trade environment is even more important since the tragedy of September 11, 2001. As you have noted in the past, economic prosperity is an important tool for creating political stability. However that prosperity must be evenly distributed in order to avoid political disruption within and between nations. An important mechanism for creating more even distribution is to link economic opportunities with improved labor rights enforcement. This concept is expressed in the recently adopted trade agreement with Jordan and we encourage the US to continue to pursue and strengthen such connections. On September 20 you were quoted in the Washington Post as stating that “[t]here is no ‘one size fits all’ formula that can deal with environment, labor, health and other challenges.” The US-Cambodia Agreement is one formula that has worked relatively well in its own context, but it needs more time to realize its goals.

(b) Ensuring the United States reaps benefits from its investment in the ILO Project

As mentioned above, the US government has contributed \$1million towards an ILO monitoring project which commenced earlier this year. The project was developed in order to fulfil requirements under the US-Cambodia Agreement. The project requires the ILO to collect information about working conditions in Cambodian apparel factories and monitor any improvements. The intended purpose of these activities is, amongst other things, to provide US trade personnel with sufficient information to make informed decisions regarding the award of quota increases under the Agreement. It is therefore clear that the ILO Project was intended to co-exist with the US-Cambodia Agreement. However, due to delays in the commencement of the project, that purpose will be frustrated in the absence of renewal of the Agreement.

(c) Continuing advantages for US corporations

The direct linkage of increasing trade opportunities and improved working conditions creates a win-win situation for US companies. The US-Cambodia Agreement has not only opened the way for US companies to use production facilities in Cambodia, it also provides those companies with a unique opportunity to demonstrate that they are serious about their commitments to corporate social responsibility. Participation in the ILO project is mandatory for all factories supplying textiles and apparel

to US corporations. As such, US corporations can readily show their customers that they are operating in an environment that not only seeks, but *requires* participation in schemes designed to improve working conditions. Furthermore, US companies and their Cambodian suppliers have an additional incentive to improve working conditions because such improvements can lead to an increase in quota.

Suggested amendments to the US-Cambodia Agreement

In the absence of regular sources of information about working conditions in Cambodian factories, the flexible structure in the current Agreement regarding quota increase decisions has worked adequately. However, upon renewal of the Agreement there will be quarterly reports from the ILO which pave the way for more precise benchmarks. Furthermore, civil society in Cambodia continues to grow and may be able to provide valuable information to the US government. We therefore propose that the renewed agreement make specific reference to the ILO reports and any other available information in its description of the consultation process. For ease of reference we have attached to this letter some suggested amendments to the Agreement in Appendix A.

President's power to renew the US-Cambodia Agreement with amendments

The President has the authority to renew the US-Cambodia Agreement, with any amendments, as long as it continues to relate to textiles and apparel. We urge you to encourage the President to exercise this power in order to take full advantage of the benefits of this innovative trade agreement.

Thank you for your attention to this matter. If you wish to discuss this further or you have any questions or need further information please contact me at (212) 845 5210 or the Lawyers Committee's Legislative Counsel, Raj Purohit, at (202) 547 5692.

Sincerely,

Michael Posner
Executive Director

Encl.

CC:
Senator Max Baucus
Senator Joseph Biden
Senator Tom Daschle
Senator Edward Kennedy
Josh Bolten, Deputy Chief of Staff, White House
Peter Davidson, General Counsel, USTR
Ted Posner, Majority Trade Counsel, Senate Finance Committee

Appendix A

Suggested Amendments to Clause 10 of the US-Cambodia Textile Agreement

Suggested amendments are marked in bold.

10(A) The Parties seek to create new employment opportunities and improve living standards and working conditions through an enhanced trading relationship; affirm respect for each Party's legal system and seek to ensure that labor laws and regulations provide for high quality and productive work places; and seek to foster transparency in the administration of labor law, and promote compliance with, and effective enforcement of, existing labor law, and promote the general labor rights embodied in the Cambodian labor code **and internationally recognized labor standards**.

(B) The Royal Government of Cambodia shall support the implementation of programs **designed** to improve working conditions in the textile and apparel sector, including internationally recognized core labor standards, through the application of Cambodian labor law. **In particular, the Royal Government of Cambodia shall cooperate with the International Labor Organisation's programs in Cambodia, including the Garment Sector Working Condition Improvement Project.**

(C) The Government of the United States and the Royal Government of Cambodia shall conduct not less than two consultations during each Agreement Year to discuss the **substance of the applicable** labor standards, **the realization of** specific benchmarks, and the implementation of programs **designed to improve working conditions. Reports from the ILO Garment Sector Working Condition Improvement Project and other relevant material, including NGO and union reports on working conditions, shall be the basis of these discussions.**

(D) Based on these consultations and other information regarding the implementation of this program and its results, **including information from NGOs and unions**, 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 Cambodian textile and apparel sector substantially comply with the **Cambodian labor code and international standards**. If the United States makes a positive determination, the Specific Limits as set forth in paragraph 4 and Annex B shall be increased by **upto** 14% for the Agreement Year following such certification. The increase will be in addition to the annual growth provided for in Annex B. Any increase granted under this paragraph will remain in effect for a subsequent Agreement Year if and only if the United States makes a positive determination by December 1 of the previous Agreement Year. Moreover, if the United States Government determines that, subsequent to an affirmative determination, the Royal Government of Cambodia has taken or failed to take major action, resulting in a significant **decline** in working conditions, then the Government of the United States may withdraw such an increase. **However, in the event of proposed withdrawal of an increase, the Government of the United States shall give the Royal Government of Cambodia at least four weeks to respond to the problematic action or omission identified by the Government of the United States.**

(E) The Royal Government of Cambodia **is encouraged to continue to** seek financing for programs **additional to the ILO Garment Sector Working Condition Improvement Project, that are designed to improve working conditions**, including financing from the Cambodian textile and apparel industry and from international organizations. The Government of the United States shall seek to assist the Royal Government of Cambodia in obtaining financing.