

Partnerships for Financial Sustainability

Efforts to ensure the sustainability of the Arbitration Council in Cambodia

The Arbitration Council is a body established to resolve collective labor disputes. At present over 90% of these disputes are from the garment industry, and over 1,900 cases have been heard. This Learning Note captures the experience of the Arbitration Council Foundation – the supporting arm of the Arbitration Council – in its effort to broker a financial arrangement to sustain the operations of Arbitration Council after the DFGG project financed by the World Bank closes. The note sets out the issues, processes and key challenges. It also makes suggestions for future steps to operationalize a multi-stakeholder financial sustainability strategy.

Background

The Arbitration Council in Cambodia was established in 2003 to resolve collective labor disputes between a group of workers and their employers on issues pertaining to labor rights and interests as well as working conditions. The AC provides dispute resolution services through mediation and arbitration of labor disputes, as well as through capacity building of workers and their employers.

Since 2009, the AC registered more than 1,260 collective labor disputes, covering a total of approximately 613,000 workers. The AC is cost effective in carrying out its services and is improving. In 2009, the average cost per case was US\$2,095 per case. In 2012 this had declined to US\$1,231 and in 2013, the average cost per case was nearly half of the 2009 cost at US\$1,081. Additionally, the average cost of a 10-day strike in Cambodia is estimated at US\$500,000. Avoiding one strike therefore covers the annual costs of running the AC's dispute resolution services.

Although the Arbitration Council is considered a state institution, the RGC does not support the AC's operations with a budget. Instead, the AC has relied on funding from international donors to support critical labor dispute resolution work. It was funded initially through the International Labour Organization, and in 2009 transitioned to support from the Demand for Good Governance (DFGG) Project financed by the World Bank. Aside from the DFGG fund, packages of support from DFAT and a stream of revenue generated from ACF activities, the AC receives no other source of income. This is a critical challenge for the sustainability of its dispute resolution work over the medium and long-term.

Sustainability Strategy and Action Plan

An inclusive process. In 2012, the Arbitration Council Foundation (ACF) started the process of developing a sustainability strategy that looked ahead to 2020. Working

with the tripartite Stakeholder Advisory Group made up of representatives from:

- The Ministry of Labor and Vocational Training;
- The employers' associations, including the Cambodian Federation of Business and Employer Associations (CAMFEBA) and the Garment Manufacturers Association in Cambodia (GMAC); and
- The trade union federations, including the Cambodia Labour Union Federation (CLUF), Coalition of Cambodian Apparel Workers' Democratic Union (C.CAWDU), Cambodian Workers Labor Federation Union (CWLUFU), and the Cambodian Tourism and Service Workers' Federation (CTSWF).

In 2014, the ACF then organized a think tank to carry forward the basic strategy into the design and implementation of a sustainability action plan for the Arbitration Council. The ACF also continued to engage with representatives of government, employers, trade unions and others, such as the American Center for International Labor Solidarity (ACILS), Better Factories Cambodia (BFC) and the International Labour Organization (ILO), to ensure the recommendations and inputs of key partners and stakeholders were taken into account.



A multi-stakeholder financing facility. In accordance with the sustainability action plan, ACF is establishing the *Arbitration Council Multi-Stakeholder Financing Facility* (ACMFF). This facility will be capable of receiving funds from a diverse source of contributors, including international development agencies and funds, international brands and, importantly, the AC's tripartite stakeholders. In the near term and over the next 3 years, the ACF still expects contributions from international donors to comprise the primary proportion of contributions. In the medium to long term, the ACF



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expects reliance on international donors to gradually be reduced and the contributions from the tripartite stakeholders to be increased. To this end, at present, the ACF is coordinating with the Ministry of Labour and Vocational Training to secure funds from the Cambodia national budget, and the ACF is working with representatives of employers and employees to work out how contributions can be made by the clients of the AC services. This would ensure the financial sustainability and continued dispute resolution services of the AC.

Looking toward financial sustainability. The cornerstone of the long-term sustainability of the AC is direct bipartite co-contributions from both employers and workers as the clients of the AC to the ACMFF. This model, akin to an insurance scheme, is based on the following:

- the private sector will support a model of direct bipartite contributions because it sees the AC's benefits, and recognizes that the RGC is not yet in a position to fully finance the AC.
- confidence in the independence and neutrality of the AC is preserved by equal contributions by employers and workers.
- the garment and footwear industry will initially be the primary funder, as 91% of labor disputes brought to the AC originate from this key export industry.

The process of seeking stakeholders' commitment to the ACMFF and the direct bipartite contribution system requires extensive outreach and dialogue, as well as careful planning, preparation and navigation; but initial signs are promising. The tripartite stakeholders of the AC have demonstrated strong support for the sustainability model.

- Representatives from GMAC expressed that, because the industry benefits from the independent and professional arbitration of their disputes by the AC, it is willing to participate in the funding of the AC.¹
- The Ministry of Labour and Vocational Training offered in-principle support to assist in operationalizing the funding model.
- Some unions, such as the Cambodian Tourism and Service Workers' Federation, also communicated their willingness to contribute to an AC fund given their confidence in the AC's service.

Challenges

Challenges remain and there are still many steps to be taken. Broad stakeholder backing for the AC and its

¹ Private sector representatives propose that the direct bipartite contribution system be open up to the whole industry and not restricted to the garment and footwear industry because of the intrinsic and nascent need in all other industries for a fair and speedy alternative to the formal justice system in Cambodia. The participation of other industries would be beneficial to the AC long-term sustainability if the private sector adopts this option.

sustainability plans must be secured and maintained. The proposed model under which workers and employers directly contribute to support labour dispute resolution services has not been utilized in other nations or jurisdictions. While other models exist in Cambodia for tripartite contribution systems (such as ILO-BFC) and bipartite contributions systems (such as the National Social Security Fund), the development and full functioning of the proposed model for the AC will not occur overnight. A myriad of legal, financial, administrative and management systems and frameworks are expected to be required, necessitating extensive review, analysis, advocacy, establishment and enactment.

Moving forward

The AC has progressed from the development of a sustainability strategy to the implementation of the action plan to secure the AC's sustainability. In the short to medium term, as per the action plan, international donor funding will continue to keep the ball rolling. Importantly, even though donor funding is expected to decrease over time, some level of donor presence will be maintained for purposes of technical assistance and to maintain useful external pressure on the governance and standards of AC stakeholders.

For the medium to longer term, the bipartite funding model, based on equal employer/employee co-contributions collected at the enterprise level, should be the primary financing vehicle to fund the ACMFF, and thereby ensure the continued provision of labour dispute resolution services in Cambodia. The AC and ACF will continue to engage with trade unions, employers' associations and other partners to provide them with opportunity to help shape the AC sustainability model; and seek to obtain a clear commitment from the government to participate in the ACMFF and to facilitate the establishment of a direct bipartite contribution system, with a specific timeline for commencement.

Engaging the stakeholders is a critical part of the Arbitration Council's sustainability action plan. Engagement leads to empowerment of the parties and generates a sense of ownership. It is the ACF's objective to engage clients as partners in pursuit of our vision, 'a just and economically vibrant Cambodia which is renowned for industrial peace'. Sustainability of the Arbitration Council requires the ACF effectively engaging with all stakeholders and the next phase of securing finance will be critical. It is too soon to tell how long this will take and what the primary blockages will be.

The DFGG Learning Note Series provides quick summaries of the lessons learned in the DFGG project.

DFGG Learning Note 11 reflects the ACF process of developing a sustainability strategy through two stages in 2010/2011 and 2012/2013. Written by Sok Lor and Hans S Hwang. Series editor Janelle Plummer.