

Ref: 049/04/14

**To
Presidents of the 8 union federations**

- Subject:** Response of GMAC to the request of the 8 union federations dated 26 March 2014.
- Reference:** Joint letter dated 26 March 2014 of the 8 union federations on request that workers in the garment and footwear sector be allowed to use annual leave from 17 to 22 April 2014 and other remaining issues be resolved.

As per the above subject and reference, the Garment Manufacturers Association in Cambodia (GMAC) would like to inform you that GMAC has already received your request letter. GMAC would like to respond to the request as follows:

- 1- According to Article 170 of the Labour Law, the right to use annual leave is the exclusive right of each worker. There is not any regulation allowing the association or professional organization to have the right to decide or request annual leave on behalf of each worker. Article 313 on role of shop steward and union also does not allow them to request annual leave on behalf of workers. In addition, the right to permission for annual leave is the exclusive right of the employer of each enterprise /establishment. According to Article 2 of the Labour Law, managing a company is the exclusive right of each employer as long as it does not go against the law. Thus, GMAC has no right to give permission for annual leave on behalf of its members.

Further, GMAC finds that your 8 union federations represent the minority of workers and has no right to represent the whole more than 600,000 workers in the garment and footwear industries. Thus, this joint request is a violation of the right of the majority of workers who are not willing and intending to take additional five days' leave after Khmer New Year holidays. They may intend to save their annual leave to use in any necessary case.

- 2- Regarding the request that the 21 detainees be released and the court drop the charges against the 23, GMAC would like to inform you that GMAC is not in authority to resolve this issue and also is not involved in this issue. This case is the exclusive authority of the court.
- 3- With regard to minimum wage increase negotiation, GMAC would like to inform you that the negotiation of minimum wage increase for 2014 has been completed. As you have been aware, the Royal Government has recently established a committee led by **H.E Keat Chhon**, Standby Deputy Prime Minister, to study and discuss the issue of minimum wage for the coming year. GMAC is also waiting for the result of the study and directive of the Royal Government on this issue.
- 4- Once again, GMAC would like to express deep regret at the incident on 2 and 3 January 2014 along Veng Sreng street. But as you have known, the strike of workers had been joined by opportunists which developed to a riot that led to anarchy. The violent behavior of the rioters was the cause of the clashes between authorities and the rioters. GMAC was not involved in this incident and we have no authority to respond to your request.
- 5- For the request that the ban on public gathering be lifted, GMAC would like to inform you that this is the authority of the Royal Government which is not involved with GMAC.

- 6- Concerning the request that the employers drop their complaint, GMAC really cannot accept this request as the right to file a complaint is the right of each factory. In addition, Cambodia is the country that has laws: the person committing a crime must be punished in accordance with the law. Thus, GMAC would like to request you to allow the court to find the truth to ensure that the Kingdom of Cambodia is the country with the rule of law which you have always wanted.
- 7- GMAC cannot intervene to request the employers to reinstate those workers. As informed above, the right to manage a company is the exclusive right of each employer as long as it does not go against the law. If you want to demand it, please use the existing dispute resolution mechanism.
- 8- Regarding the request for wages and attendance bonus during the strike, GMAC believes that you as union leaders really know clearly that **Article 332 of the Labour Law does not require the employer to provide this benefit for workers during the strike, regardless of legal or illegal strike. Thus, GMAC instructs all members to implement this Article strictly to ensure respect for the laws of the Kingdom of Cambodia.**

Please accept, the Presidents of the 8 union federations, the assurance of my high consideration.

Phnom Penh, 09 April 2014
Chairman
(signed and stamped)
Van Sou Ieng

CC:

- Cabinet of Samdech Techo Prime Minister
- Ministry of Interior
- Ministry of Labour and Vocational Training
- General Commissariat of National Police
- National Military Police
- Phnom Penh Governor
- Arbitration Council
- ILO-BFC
- GMAC members
- Archives