
A Compliance-Based Future in Cambodia's Garment Sector Supply Chains



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EXECUTIVE SUMMARY

The worldwide garment industry is in a period of transition as countries around the world are increasingly adopting formal standards for corporate practices on labor, environmental, corruption, and governance standards. Such standards range from the U.S. Lacey Act, covering overseas environmental practices, the Uyghur Forced Labor Prevention Act (UFLPA), the European Union's (EU) Directive on Corporate Sustainability Due Diligence (CS3D), to Germany's Supply Chain Due Diligence Act. As companies globally adjust their supply chains to comply with these new standards, they must reevaluate their operations in emerging markets and manage new risks. Thus, garment buyers, typically referred to as brands, especially in the US and EU, are moving to a model of supply chain due diligence.

This report reflects on these new standards, their potential impact in Cambodia and introduces the concept of a national level multistakeholder commission that could adopt the mission of improving standards through mutual consensus. But to do all this, Cambodia will need to overcome a multitude of challenges that are deeply engrained in the garment sector.

Key findings in this report include:

- The garment sector is a buyer-driven value chain, meaning that the decisions of brands shape the nature of activities that occur in their supply chain.
- Numerous governments are in the process of implementing due diligence laws that require brands to ensure social and environmental standards are met throughout their supply chains.
- Countries that are heavily reliant on garment exports, such as Cambodia, face a decision on how to adapt to these changing market conditions. Adaptation to new levels of due diligence requires coordination across the supply chain, but the complexity of stakeholders in the Cambodian garment sector means that extensive coordination is difficult, and a new multi-stakeholder model is required.
- A national level multistakeholder commission could be created to agree on social and environmental impact standards, here termed sustainability standards, that both satisfy due diligence requirements and meet the negotiated needs of stakeholders. This shared responsibility approach can ensure that new sustainability standards are actively negotiated and are also enforceable.
- Such decisive action in a coordinated way can benefit not only Cambodian businesses, but also workers, manufacturers, and the environment. The lack of a shared legal framework for determining sustainability standards is likely to make the process more inefficient and could lead buyers to move to other countries where fewer risks exist and legal frameworks for setting and maintaining sustainability standards are easier and more efficient.

1. INTRODUCTION

The global garment supply chain is buyer-driven, meaning that brands have considerable power over other actors in their supply chain (Boudreau et al., 2023). This report will examine the motivations for brands to use such power to improve social and environmental standards. It will then attempt to understand which motivations are relevant for the Cambodian garment sector, how they might be best applied, and which points of leverage exist to be utilized.

While environmental standards may seem distinct from social rights, it is important to recognize that they are closely related and together form what can be termed “sustainability standards.” Sustainability standards can be defined as a set of “voluntary predefined rules, procedures, and methods to systematically assess, measure, audit and/or communicate the social and environmental behavior and/or performance of firms” (Gilbert et al., 2011: 24).

Figure 1: Sustainability standards and their interaction



The interaction of sustainability standards is displayed in Figure 1. Often, environmental impacts can affect workplace health and safety and labor rights. For example, water management at a plant will have environmental impacts if polluted water is discharged by the plant. Those impacts on water quality may then affect the quality of the water consumed by employees, thereby affecting workplace health and safety. Such negative impacts on workplace health and safety could then breach the labor rights of employees. Another example relates to energy usage. Garment factories require boilers to generate steam but the choice of fuel to burn may generate air pollution. Simultaneously, improving workplace conditions may have negative environmental consequences. For example, one option to address excess heat in factories is using air conditioning, but if renewable electricity is not accessible, this would significantly add to the carbon emissions of the factory.

Clearly, the environmental and social externalities of a factory are intertwined such that it makes sense to establish environmental and social standards together rather than placing them in separate silos.

This is why this report chooses to focus on the combined concept of sustainability standards. It also reflects the shift in due diligence legislation to include both social and environmental standards together (see Section 2.5).

If a brand is motivated to adopt sustainability standards, it has discretion as to the type (or types) that it will implement. Table 1 shows the existing types of sustainability standards and their strengths and weaknesses.

Of the listed standards, this report focuses on the use of multi-stakeholder joint liability initiatives. A joint liability mechanism is a legal arrangement in which multiple parties are held jointly and severally liable for a particular obligation or debt. This means that each party is individually responsible for the entire obligation or debt, as well as jointly responsible with the other parties involved. Under a joint liability mechanism, if any one of the parties fails to comply with these standards, all parties may be held liable for the violation. This helps to ensure that all parties involved in the supply chain have a vested interest in ensuring that labor and environmental standards are met, and that violations are addressed in a timely and effective manner.

The focus on joint liability initiatives is based upon their strength in being legally enforceable and mutually (and voluntarily) agreed between parties. These traits make them unique compared to the other standards. This legal enforceability can ensure that reforms are effective rather than symbolic, and that multiple stakeholders are involved in standard setting processes. The main weakness of joint liability initiatives is that their legal enforceability may make brands hesitant to join them for fear of legal reprisals. If joint liability initiatives are only adopted by a small number of brands in a sector, then their effectiveness becomes limited. Any standard can be transparent and fair to the parties involved. Enforceability depends on the legal nature of the instrument and coverage will depend on either pressure for industry-wide adoption or the standards being attractive enough or achieving such a critical mass that a vast majority of industry stakeholders want to join.

This report aims to explore the motivations to adopt standards and then determine if brands operating in Cambodia might be motivated to adopt them via a joint liability initiative. The remainder of this report is structured as follows: Section 2 will look at motivations for brands to adopt sustainability standards in the garment sector. Section 3 describes the Cambodian garment sector including trends and stakeholders. Section 4 examines current sustainability standards and sustainability issues in the Cambodian sector, then attempts to determine what motivations and types of standards might be worth pursuing. Section 5 explores the viability of a Cambodian Commission for Sustainability Standards. Section 6 makes recommendations, considers challenges and concludes the report.

Table 1: Types of social and environmental standards in the garment sector

STANDARD TYPE	EXAMPLES	STRENGTHS	WEAKNESSES
Intergovernmental organization guidance	<ul style="list-style-type: none"> • UN Guiding Principles on Business and Human Rights (UNGPs) • International Labor Organization Labor Standards 	<ul style="list-style-type: none"> • Clear 	<ul style="list-style-type: none"> • Unenforceable
Proprietary code of conduct	<ul style="list-style-type: none"> • H&M Code of Ethics • Nike Supplier Code of Conduct 	<ul style="list-style-type: none"> • Flexible 	<ul style="list-style-type: none"> • Unenforceable, • Not standardized across brands
Industry-backed accreditation	<ul style="list-style-type: none"> • Worldwide Responsible Accredited Production (WRAP) • Business Social Compliance Initiative (BSCI) 	<ul style="list-style-type: none"> • Harmonization between companies 	<ul style="list-style-type: none"> • Funded by industry so potentially biased towards them
Industry code of conduct	<ul style="list-style-type: none"> • Corporate Sustainability Compact for Textile and Apparel Industry (CSC9000T) 	<ul style="list-style-type: none"> • Standardized across industry 	<ul style="list-style-type: none"> • Mainly serves industry interests
Multilateral accreditation standards	<ul style="list-style-type: none"> • Better Factories Cambodia • Better Work 	<ul style="list-style-type: none"> • Based on international standards 	<ul style="list-style-type: none"> • Weak enforcement
Third-party system standards	<ul style="list-style-type: none"> • ISO26000 • SA8000 	<ul style="list-style-type: none"> • Reputable 	<ul style="list-style-type: none"> • Unenforceable • Costs • Not specific to garments
Environmental accreditation audits (Ecolabels)	<ul style="list-style-type: none"> • Bluesign, • Oeko-Tex 	<ul style="list-style-type: none"> • Reputable 	<ul style="list-style-type: none"> • Unenforceable • Costs • Lack of harmonization
Multi-stakeholder joint liability initiatives	<ul style="list-style-type: none"> • Bangladesh Accord, • Action on Living Wages (ACT) 	<ul style="list-style-type: none"> • Enforceable • Mutually agreed between parties 	<ul style="list-style-type: none"> • Free rider effect if non-participants benefit from improvements
Research- based benchmarks	<ul style="list-style-type: none"> • Global Living Wage Coalition • Institute for Human Rights in Business 	<ul style="list-style-type: none"> • Evidence-based • Independent 	<ul style="list-style-type: none"> • Guidance only
NGO certification	<ul style="list-style-type: none"> • FairTrade • FairWear 	<ul style="list-style-type: none"> • Transparent 	<ul style="list-style-type: none"> • Costs • Difficult to measure impact

2. MOTIVATIONS TO ADOPT STANDARDS

Adopting sustainability standards is voluntary and incurs costs, so why would a brand adopt them? This report examines five motivations that have previously driven standards adoption: consumer preferences, reputational risk, productivity, trade agreements and legal compliance.

2.1 Consumer preferences

Consumers are increasingly concerned about the impact of products and services on the environment, and many want to make choices that minimize their carbon footprint and reduce waste (Kianpour et al., 2014). In a survey of apparel sourcing executives and managers by McKinsey Apparel, Fashion & Luxury Group (2018), 78% of respondents stated that sustainability will be “somewhat/highly likely” a key purchasing factor for mass-market apparel consumers by 2025. In addition, thanks to investigative journalism and the greater availability of information, consumers are more aware of the social and ethical implications of the products they buy (de Lamballerie & Guillard, 2023). While price, quality, and style are the most influential decision factors (Iwanow et al., 2005), research suggests consumers are willing to pay a premium for sustainably-produced garments (Ciasullo et al., 2017). Adoption of sustainability standards can then be marketed to the consumer to demonstrate a commitment to workers or the environment. Research argues that changes in consumer preferences can be successful in improving working conditions, but only where consumers are not extremely price-sensitive (Pines & Meyer, 2005). One example of a brand utilizing consumer preferences for beneficial environmental outcomes is Levi’s “Water<Less” Project.

Case Study: Levi's Water<Less Project The Levi's Water<Less project is an initiative launched by Levi Strauss & Co. to reduce the water consumption in the manufacturing of their jeans while promoting sustainability standards. The project was introduced in 2011 with the aim of addressing the significant environmental impact of water intensive denim production processes. Through innovative manufacturing techniques, Levi's Water<Less project has successfully reduced the water usage in the finishing process of denim jeans. The company claims that some of its jeans are now made using up to 96% less water than traditional methods. This reduction helps to mitigate the negative impacts associated with water scarcity and pollution.

Limitations: Levi's water-saving efforts may face challenges in scaling across the entire global supply chain, which involves numerous suppliers and subcontractors with varying levels of water-management capabilities. The water-saving techniques primarily focus on the finishing processes of jeans, which may represent only a portion of the overall water consumption in the denim production lifecycle.

2.2 Reputational risk

Related to consumer preferences is the reputational damage caused by disasters or other highly publicized negative events that put public pressure on brands. Table 1 contains examples of historical high-profile disasters that drew attention to failures of existing standards in garment factories.

This pressure on reputation, can lead to brands taking responsibility for improving standards (Ahlquist & Mosley, 2021). This was the case with the Bangladesh Accord on Fire and Building Safety.

Case Study: Bangladesh Accord on Fire and Building Safety The Bangladesh Accord on Fire and Building Safety was a legally binding agreement signed in 2013 between global apparel brands and trade unions to improve working conditions and safety in the Bangladesh garment industry following the collapse of a factory complex called Rana Plaza in 2013, killed more than 1,100 people. Rather than simply leave Bangladesh, brands decided that the industry was too critical and they needed to stay and deal with the weaknesses in fire and building safety. Under the terms, each factory was required to set up a safety committee and complaints mechanism to monitor safety issues. The Accord established a steering committee to oversee its implementation.

Under the Accord, signatory brands are required to ensure that their suppliers comply with a set of standards, which includes requirements related to building safety, fire safety, electrical safety, and workers' rights such as maternity pay, working hours, and workplace violence. The Accord also established a joint liability mechanism, which holds all parties involved in the supply chain, including the brands, their suppliers, and subcontractors, accountable for violations of these standards.

The Bangladesh Accord has been credited with improving safety and labor standards in the Bangladesh garment industry (Croucher et al., 2019; James et al., 2019). In 2020, the Accord on Fire and Building Safety in Bangladesh signed an agreement on transition to RMG Sustainability Council which is now governed by the regulatory framework of the Government of Bangladesh. In this way these improved standards were integrated into the Bangladesh legal framework.

Limitations: Critics of the Accord emphasize that it does not cover a vast majority of factories. Indirect suppliers and subcontractors are not included, even though they often represent the worst conditions and the most vulnerable workers (Alamgir & Banerjee, 2018). A lack of clarity about who pays the costs of factory upgrades is also a clear weakness. While it is agreed that unsafe factories need to be made compliant, the details of who foots the bill remains up to the factory to pay or negotiate. While the Accord is intended to offer low-cost loans to assist with funding, some factories indicate that it has failed on this requirement (Ibid).

The key question about the Accord is whether its narrow focus on safety improvements is a limitation or a strength. If the Accord went further in terms of commitments it may have received less support from stakeholders, but it could also be a missed opportunity. This makes the replicability of the Accord in other contexts difficult to assess (Collins & Yates, 2023).

Table 2: Examples of historical incidents that garnered media attention about garment factory conditions.

INCIDENT	YEAR	LOCATION	DETAILS	IMPACT
Triangle Shirtwaist Factory Fire	1911	New York City, United States	A fire broke out at the Triangle Shirtwaist Factory, resulting in the death of 146 garment workers, mostly young immigrant women.	The tragedy highlighted unsafe working conditions and spurred labor reforms in the U.S.
Kader Toy Factory Fire	1993	Bangkok, Thailand	A fire at the Kader Toy Factory led to the death of 188 workers, most of them young women.	The disaster drew attention to inadequate fire safety measures and poor working conditions in the garment industry in Thailand.
Tazreen Fashion Factory Fire	2012	Dhaka, Bangladesh	A fire at the Tazreen Fashions factory resulted in the deaths of at least 112 workers.	This led Walt Disney to leave Bangladesh completely.
Ali Enterprises Factory Fire	2012	Karachi, Pakistan	A massive fire at the Ali Enterprises garment factory killed at least 255 workers.	The incident highlighted safety violations and labor rights issues in Pakistan's textile industry.
Rana Plaza Collapse	2013	Dhaka, Bangladesh	The Rana Plaza building, housing several garment factories, collapsed, claiming the lives of over 1,100 workers.	This catastrophic event exposed the severe safety and structural deficiencies in Bangladesh's garment industry and sparked global discussions on responsible sourcing.
Kentex Manufacturing Corp Fire	2015	Manilla, Philippines	A fire broke out at a garment factory, causing the deaths of 38 workers.	The disaster drew attention to poor working conditions and safety standards in the Philippine garment sector.
Tampaco Foils Factory Fire	2016	Dhaka, Bangladesh	A fire at the Tampaco Foils factory resulted in the deaths of at least 18 workers.	The incident highlighted the need for better fire safety measures in Bangladesh's industrial facilities.

Reputational risks are not always caused by a singular harmful event, such as a fire or building collapse. Social movements identifying structural problems can also trigger enough reputational risk to justify a response from brands. The #MeToo movement triggered sufficient pressure for brands to take steps to address gender-based violence and harassment in Lesotho and Tamil Nadu, India.

Case Studies: Lesotho and Tamil Nadu In Lesotho, a joint liability pilot program was launched in 2019 to address gender-based violence and harassment (GBVH) for over 10,000 workers. Tandem agreements between three global brands (Kontoor, Levi Strauss & Co and The Children’s Place), an apparel manufacturer, three unions and two women’s rights organizations involved the creation of an independent investigative organization to receive complaints of GBVH from workers, carry out investigations, and enforce remedies. An Oversight Committee for the program will be created with

equal voting power for brands and local organizations. The textile company and US-based Workers Rights Consortium act as observers on the Oversight Committee. Three years into the program, a report found that workers “expressed a basic level of trust in the complaint mechanism and a willingness to report abuse through that mechanism” (Senyane et al., 2023). This was held to be a major transformation compared to previous attitudes of reporting GBVH and accompanied a “marked reduction in incidents of GBVH.”

Another joint liability agreement, the Dindigul Agreement, was created in Tamil Nadu in Southern India in response to gender-based violence and harassment. The agreement was announced in April 2022 between the manufacturer, a union, two civil society organizations, and three major global brands (H&M, Gap Inc, and PVH Corp) The agreement’s stated aims are to eliminate discrimination based on gender, caste, or migration status in the garment factory setting. In the contract, the garment manufacturer made a binding, three-year commitment to establish a comprehensive program for worker training, empowerment, and impartial investigation and remediation of worker complaints related to gender-based violence and harassment, as well as associational rights violations. The union will be involved in governing and implementing this program. The brand will enforce the manufacturer’s commitments as a mandatory condition of future business. To ensure compliance, the brand made a binding commitment to provide funding and oversight, along with the labor stakeholders, through a multi-year agreement that is open to arbitration. In June 2023 it was reported that 98% of 185 grievances were resolved in the first year including all GBVH cases (Global Labor Justice-International Labor Rights Forum (GLJ-ILRF), 2023)

Limitations: Both joint liability programs face the challenge of workers who are scared to utilize the mechanism for fear of reprisals, especially if the complaint is against a manager or supervisor. Disclosure is another obstacle; confidentiality is key to maintaining trust in the mechanism but conflicts with the desire to inform workers that actions are being taken and yield results.

2.3 Productivity

In theory, many sustainability improvements can also improve productivity, and therefore fit within the profit maximization goals of firms. For instance, rising heat in factories reduces worker productivity (Somanathan et al., 2021), flooding leads to reduction in output, capital and employment (F. Hossain, 2020) and air pollution results in lower productivity when pollution sensitive workers cannot be reallocated to other tasks (Adhvaryu et al., 2019). Upgrading or modifying the factory space to deal with such productivity losses can be cost effective. An example to prove this point was conducted in Bangladesh.

Case study: Window type and ventilation strategy on indoor thermal environment of existing garment factories in Bangladesh Source: Hossain et al., 2017

In the context of Bangladesh's tropical climate, workers in ready-made garment (RMG) factories face various challenges related to their working conditions and health. The indoor air temperature is high and air distribution is poor, leading to discomfort and health issues among the workers. These

discomforts extend to different sections of the factory, such as cutting, sewing, and finishing areas. Consequently, worker productivity is negatively affected, requiring additional workload to meet production targets with no financial gain.

To address these issues, extensive research was conducted, involving field studies in three multi-story factory buildings located in Dhaka and Chittagong regions of Bangladesh, worker and owner interviews, and simulation studies. The data collected from the field studies revealed that the current window configurations, along with limiting ventilation only to occupied hours, contributed to the indoor overheating.

Among various proposals, two solutions were seen as valuable and cost effective by the building owners. First, altering the existing windows to ones with a higher effective opening area, and second, adopting a night-time ventilation strategy. These changes were considered beneficial for both existing buildings and proposed new constructions. To quantify the potential benefits, a validated simulation study was conducted. The results confirmed that implementing these two interventions could lead to a reduction of up to 23% in overheated working hours, thereby enhancing the workers' thermal comfort and overall well-being.

Limitations: Addressing such productivity losses can be difficult depending on the level of investment required to modify or upgrade factories. The productivity gains may offset the investment costs over the longer term but manufacturers operating on small profit margins may not be able to make such a long-term investment. For such sustainability improvement, costs must be either affordable for the factory or somehow subsidized by either governments or buyers. Sustainability standards should therefore focus both on instituting cost-effective strategies to address productivity and reducing social and environmental impacts. In cases where larger investments are required, they should create a framework where funding can flow to manufacturers to make necessary upgrades that will improve productivity over the long term.

2.4 Trade agreements

Sustainability standards are relevant in international trade negotiations, with preferential trade agreements sometimes containing provisions for adopting and enforcing new standards covering corporate practices on labor, environmental, corruption, and governance issues. When certain agreements become ratified, companies will need to adjust their supply chains to comply with these new standards in order to manufacture in that country.

Case Study: Better Factories Cambodia Better Factories Cambodia (BFC) was established in 2001 to meet the requirements of the United States-Cambodia Bilateral Textile Agreement (UCTA). It is a joint program of the International Labor Organization (ILO) and the International Finance Corporation (IFC), with the aim of improving working conditions in Cambodia's garment factories via multi-stakeholder engagement with government, labor, factory owners and buyers (Robertson et al., 2021). BFC conducts factory assessments, provides training and support to factories, and works with stakeholders to promote compliance with labor standards. BFC publicly reveals those factories with compliance issues

including safety, discrimination, wages, and freedom of association, an enforcement mechanism labelled “name and shame.” Prior to 2005, improvements in labor standards were directly tied to growing export quotas but following the UCTA expiration, textile exports to the US are no longer connected to improving labor standards. Still, its monitoring reports have helped to raise awareness of labor violations and have prompted some factories to take corrective action. It also details union compliance with legal requirements around strikes. As of 2023 BFC covered 59 brands and 557 factories (BFC, 2023).

As a result of their participation with BFC, export apparel factories in Cambodia improved compliance with labor law including issues of compensation, contracts, occupational safety and health and working time (Ang et al., 2012; Beresford, 2009; Hall, 2011; Shea et al., 2010; Wetterberg, 2011). Following the creation of BFC, Cambodia earned the reputation of being an ethical sourcing option, partially because the ILO was involved in the monitoring program and was deemed a legitimate partner.

Limitations: Despite its positive reputation, the effectiveness of BFC is challenged by some researchers who argue that market competitiveness since the expiration of the UCTA in 2005 and the actions of the Cambodian government have prevented further improvement in (or even worsened) labor standards (Arnold & Han Shih, 2010). In a detailed evaluation, Sonnenberg & Hensler (2013) cite excessive working hours, fixed duration contracts, poor health and safety concerns as evidence of BFC’s ineffectiveness. Other weaknesses of BFC monitoring are the limited budget and small team of monitors, which can make it challenging to cover all factories in Cambodia. This means that some factories may not be monitored as frequently or thoroughly as others. BFC relies on the assumption that public disclosure of a non-complying factory will be enough for a buyer to discontinue further contracts with that manufacturer. This may or may not be the case depending on the reliance of that buyer on the quality or cost provided by that factory.

2.5 Legal compliance

Until recently, issues of due diligence and legal compliance in a factory were a matter for third-party suppliers rather than brands themselves. This has changed with the emergence of mandatory supply chain due diligence legislation in many countries across Europe, Australia, the UK, and the US (see Table 3). Japan has instituted similar guidelines in 2023 that are not yet mandatory but apply in public procurement (Umino et al., 2023) This “hard law” replaces “soft” guidelines for larger companies and all contain sanctions for non-compliance. A theme of the new regulatory regimes is the proactive assessment and public reporting of risks throughout the supply chain.

The stricter laws, such as the German law and new EU due diligence law, also require the establishment of complaints procedures and remedial action where violations are identified. These laws motivate companies to engage with members of the supply chain rather than just previous “box-ticking” approaches to compliance where requirements were pushed to suppliers via terms and conditions in supplier contracts. Since the German and EU laws are relatively new, it is difficult to evaluate their effectiveness which depends on how strictly the German government institutes

sanctions on companies. However, it is clear that the laws have motivated many companies to make significant changes to their risk assessment structures and activities (Deva, 2023).

Case Study: Adidas Risk Mapping Source: Horowitz Brook & Green, 2023

Adidas monitors suppliers for human, labor rights and environmental risk using country level assessments, factory level assessments and grievance mechanisms that workers and other parties can use. The information received may result in additional site visits, audits, or other engagement with a business entity or factory at any time. In September 2021, Adidas contracted supply chain tech company Labor Solutions to conduct a worker pulse survey on behalf of Adidas, reaching out to 350,000 workers across 125 factories in 17 countries simultaneously. The survey spanned four weeks during which nearly 70,000 workers responded with valuable feedback. The primary purpose of the Adidas worker pulse survey was to generate an Employee Net Promotor Score (eNPS) for each supplier involved. This score serves as a crucial tool for both Adidas and the factories, enabling them to gain insights into work sentiment, engagement, and overall well-being that can influence supplier decisions between factories and countries. To maintain continuous assessment, the plan is to conduct this survey every six months, allowing suppliers and Adidas to monitor worker satisfaction levels and identify areas for improvement. Adidas adopted such grievance mechanisms prior to the start of the German supply chain law but they are now mandatory across all large German firms (BAFA, 2023).

Limitations: Even where grievance mechanisms are mandatory, this approach relies on proper education to inform workers of their existence and the technology and language skills to use them. If the grievance mechanism lacks a prompt and efficient response process, workers may become disillusioned and lose trust in the system's effectiveness. Workers may also be hesitant to submit grievances if the system does not guarantee anonymity or if there is a general fear of being identified and facing consequences. If there is a lack of trust or belief in the mechanism's impact, participation rates may remain low. Further, the brand's head office might not fully understand the local context and complexities of the factory's operations and workforce. This can lead to insufficiently addressing certain issues that are specific to the factory's location.

Table 3: Supply Chain Due Diligence Legislation

JURISDICTION	LEGISLATION	YEAR	REQUIREMENTS
California	Transparency in Supply Chains Act	2010	Publicly reveal details about their endeavors to eliminate human trafficking and slavery from their supply chains.
France	Duty of Vigilance	2017	Evaluate and tackle the negative consequences of their operations on both society and the environment. Companies are required to publish annual, publicly available vigilance plans.
Netherlands	Child Labor Due Diligence Law	2019	Investigate to ascertain whether child labor has played a role in the production of any goods or services being sold or supplied by the company.
United States	Uyghur Forced Labor Prevention Act	2021	Any company importing goods from the Xinjiang region must provide certification confirming that the products were not manufactured using forced labor.
Australia	Modern Slavery Act	2022	Disclosure of potential risk of modern slavery in its operations and supply chain. It should outline the measures and actions it has implemented to address the identified risks.
Norway	Transparency in Supply Chains Act	2022	Companies are mandated to conduct due diligence activities as a means of ensuring responsible operations and compliance with human rights and decent working conditions.
Switzerland	Due Diligence in Supply Chains	2022	Affected companies must check their supply chains for compliance with human rights and environmental standards.
Germany	Act on Corporate Due Diligence Obligations in Supply Chains	2023	Requires companies to conduct appropriate human rights and certain environmental due diligence in their supply chains. Also requires remedial action and establishing a complaints procedure.
European Union	Corporate Sustainability Reporting Directive	2023	Regulations pertaining to the social and environmental information that companies must disclose.
European Union	Corporate Sustainability Due Diligence Directive	2024	Identify and, where necessary, prevent, end, or mitigate adverse impacts of their activities on human rights, such as child labor and exploitation of workers, and on the environment, for example pollution and biodiversity loss.

The next step is to apply the above motivations and types to the Cambodian garment sector. First, it is useful to examine the trends and context of the sector.

3. THE CAMBODIAN GARMENT SECTOR

The Cambodian garment sector holds immense significance within the country's economy and daily lives of many citizens. As one of Cambodia's key industries, the garment sector plays a vital role in contributing to the nation's GDP and providing employment opportunities for over 800,000 workers (including over 90% women) (Oxfam, 2021). Garments comprise 53% of Cambodia's exports, one of the highest ratios in the world, equivalent to more than 1.8% of textile and clothing exports globally and contributing 30% of Cambodian GDP (WTO, 2022). Cambodia specializes in the 'cut, make, trim' (CMT) segment of the garment supply chain and ranks 6th in the world as a CMT exporter (WTO, 2023) (See Figure 2).

With numerous garment factories spread across the country, including in the capital city of Phnom Penh and other major provinces, the sector has become a major source of income for many families. As a labor-intensive industry, its success is intricately linked to the livelihoods and economic well-being of millions of Cambodians. For countless workers, primarily young women from rural areas, factory jobs represent a path to economic independence and a means to support their families. Many workers leave their home villages and migrate to industrial zones to secure employment in garment factories, contributing to urbanization and demographic shifts in Cambodia. The industry's presence has also led to the growth of support services, such as transportation, housing, and local markets, which cater to the needs of the factory workers. As a result, the garment sector has shaped the landscape of Cambodian cities and towns and impacted the social fabric of communities.

3.1. Trends in the Cambodian garment sector

Over the past two decades, the industry has experienced rapid growth, attracting significant foreign investment and becoming a crucial part of the global apparel supply chain with many international clothing brands sourcing their products from the country. Partly, this is due to trade deals with the US and EU (see Table 4) which now receive over half of exports with the remainder mostly going to Japan, Canada and the UK (Figure 4). The history of trade deals between the EU and Cambodia reflects a complex and evolving relationship, with both the US and EU seeking to balance economic interests with concerns about human rights and democratic governance in the country. The partial suspension of Cambodia's 'Everything But Arms' EU benefits in 2020 marked a significant development in this relationship, and it remains to be seen how the trade relationships will move forward.

A recent addition to Cambodia's garment sector is the travel goods industry which has experienced growth in the past decade. In 2016, Cambodia was granted duty-free access to the United States market under the Generalized System of Preferences (GSP) program for travel goods. This development significantly boosted the country's travel goods exports to the United States. Since then, Cambodia's exports of travel goods, such as luggage, backpacks, handbags, and wallets, have been increasing. Duty-free access to the US market has been a significant factor in the industry's growth. Cambodia's travel goods manufacturers have been expanding their production capacities to meet the rising

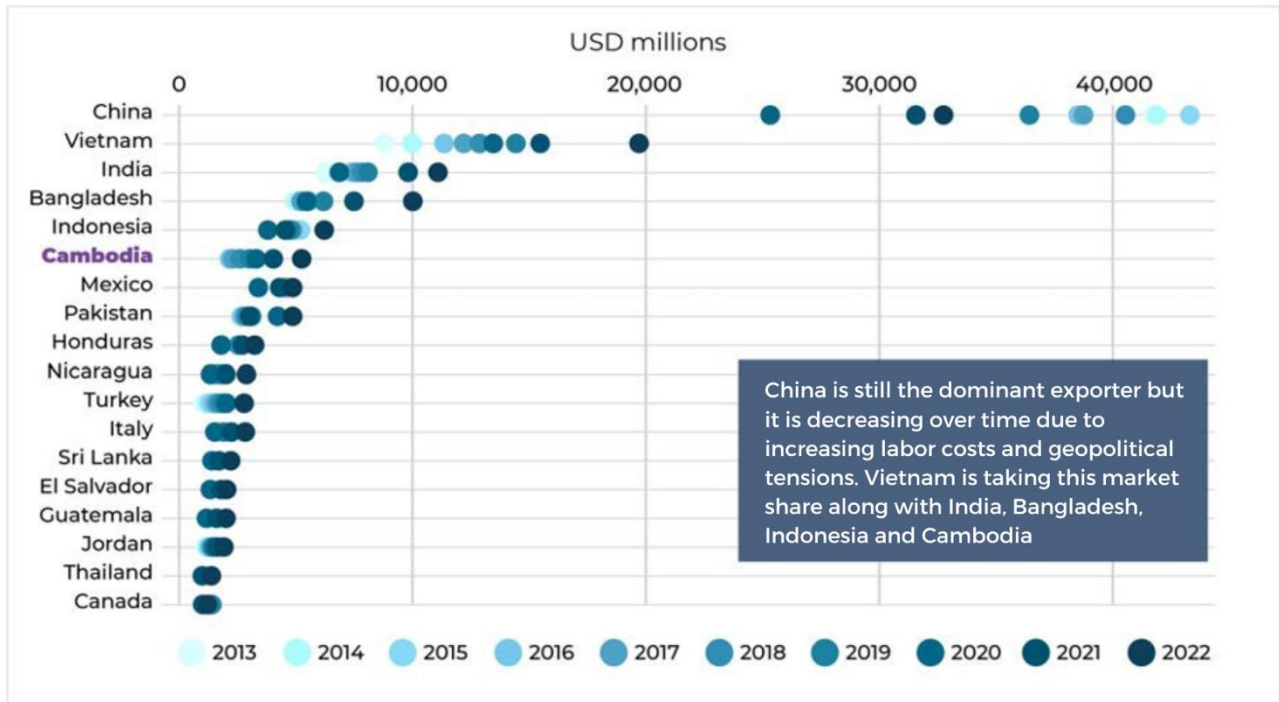
demand.

The impact of COVID further impacted this trade relationship with a sharp drop in demand for Cambodian garments from overseas and cancellation of orders. As a result, this sent the sector into a crisis with many factories in Cambodia forced to suspend operations or reduce their workforce, leading to widespread job losses and financial hardship for workers and their families (cf. Oxfam, 2022).

Additionally, some factories shifted their production to produce PPE and other medical supplies, which helped to mitigate the impact of the pandemic on their businesses and workers (Vireak, 2020). Still, garment orders remain much lower, particularly from European companies, and many workers have been laid off with some still fighting for severance payments (Pradeep, 2023).

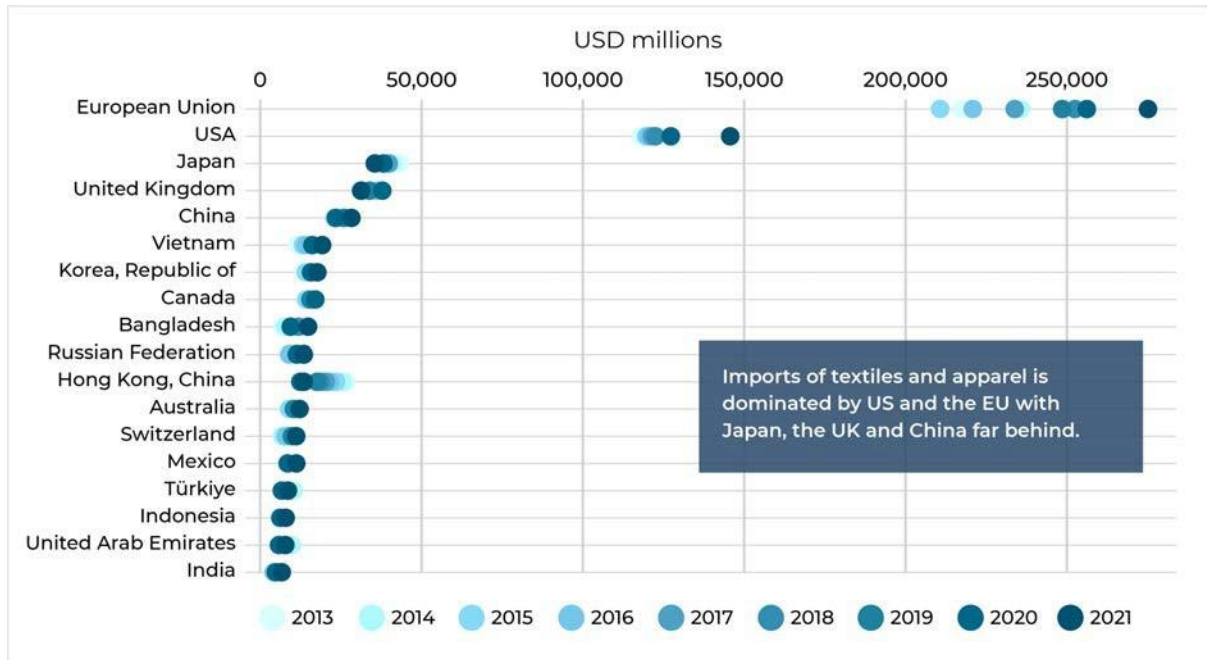
Figures 2 & 3: Global exporters and importers of textiles and apparel

Figure 2: Exporters of Textiles and Apparel (2013 – 2022)



Source: <https://www.wto.org>

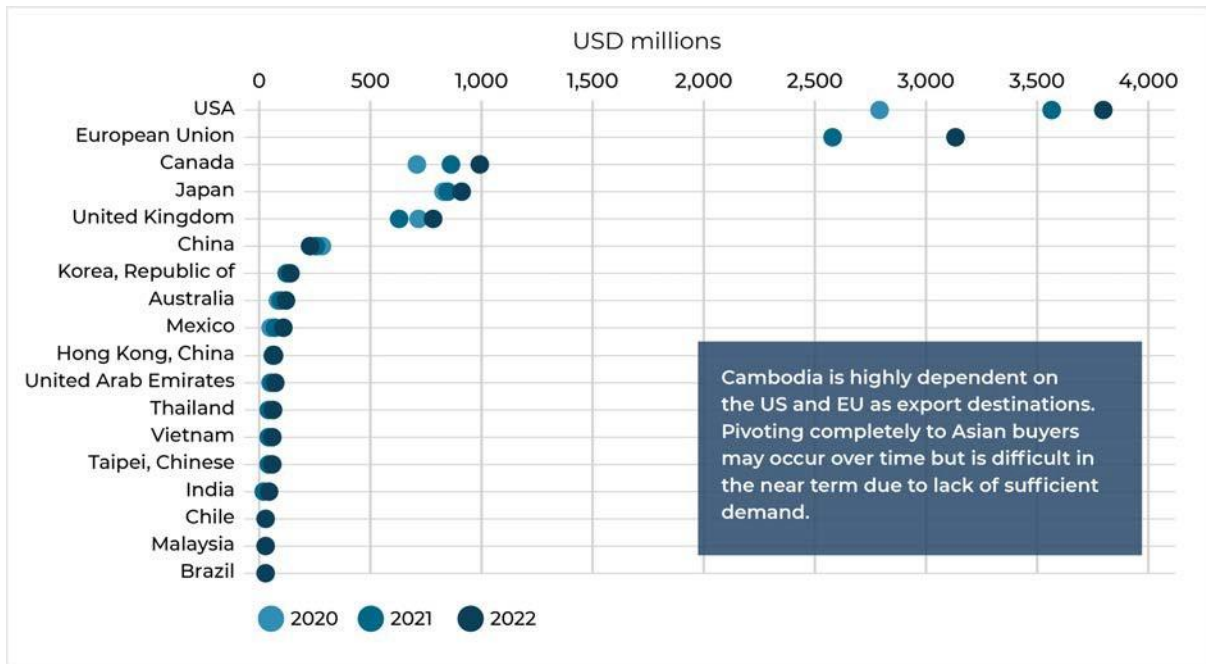
Figure 3: Importers of Textiles and Apparel (2013 – 2021)



Source: <https://www.wto.org>

Figures 4 & 5: Cambodian exports and US imports of textiles and apparel

Figure 4: Cambodian Exports of Textiles and Apparel (2020 – 2022)



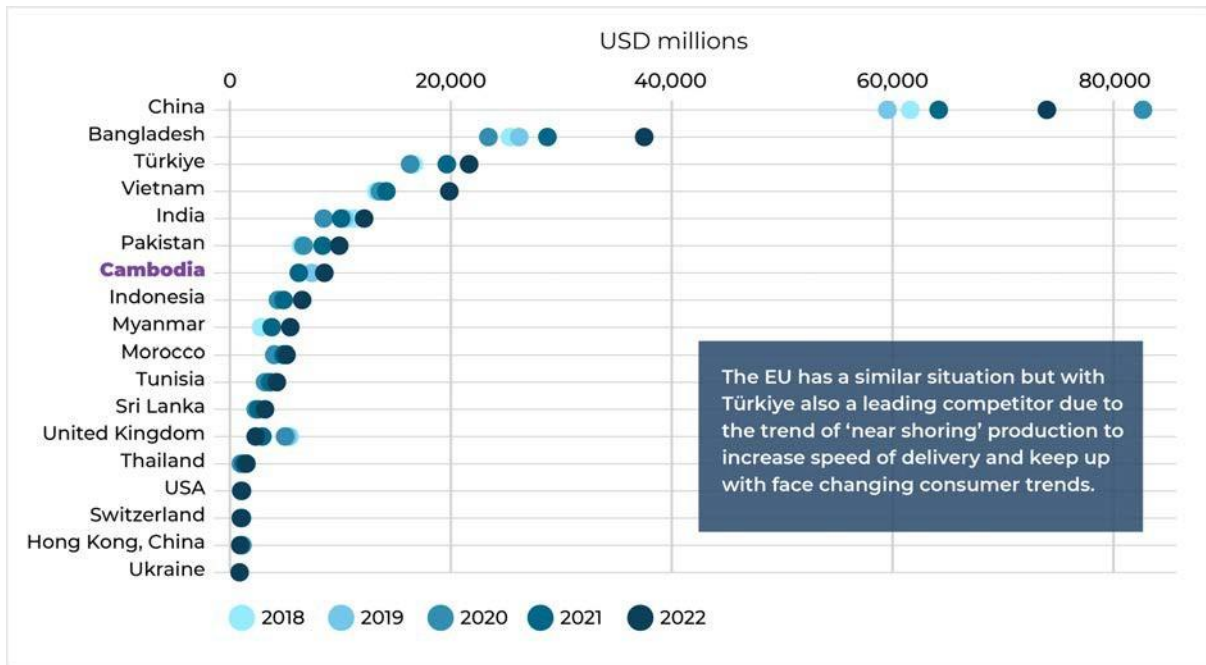
Source: <https://www.trademap.org>

Figure 5: US Import Sources of Textiles and Apparel (2013 – 2022)



Source: <http://www.trade.gov>

Figure 6: European Union Imports of textiles and apparel (2018 – 2022)



Source: <https://www.trademap.org>

Table 4: Milestones in EU and US trade deals with Cambodia

EUROPEAN UNION	UNITED STATES
<p>2001: The EU grants Cambodia the "Everything But Arms" (EBA) trade preference scheme which allows duty-free and quota-free access to the EU market for all exports except for arms and ammunition.</p>	<p>1996: The US and Cambodia sign a bilateral trade agreement, which provides Cambodia with duty-free and quota-free access to the US market for certain textile and apparel products.</p>
<p>2008: The EU and Cambodia begin negotiating a bilateral "Partnership and Cooperation Agreement" (PCA), which aims to deepen political and economic ties between the two parties.</p>	<p>1997: The US imposes economic sanctions on Cambodia in response to human rights violations and political instability in the country. The sanctions include the suspension of non-humanitarian aid and a ban on US arms sales to Cambodia.</p>
<p>2013: The EU and Cambodia conclude negotiations on the PCA and sign the agreement, which includes provisions on human rights, democracy, and the rule of law.</p>	<p>1997: The US grants Cambodia the "Generalized System of Preferences" (GSP) trade preference scheme, which allows duty-free access to the US market for certain products.</p>
<p>2016: The EU launches a review of Cambodia's EBA status, citing concerns about human rights and labor rights violations in the country. The review includes a fact-finding mission and consultations with stakeholders.</p>	<p>1999: The Bilateral Textile Trade Agreement is enacted, linking improved labor conditions in Cambodia to increases in US import quotas for Cambodian textiles until the quotas were eliminated in 2005.</p>
<p>2018: The EU issues a preliminary report on its EBA review, noting serious concerns about human rights and labor rights violations in Cambodia. The report recommends suspending some or all of Cambodia's EBA benefits.</p>	<p>2006: The US and Cambodia sign a "Trade and Investment Framework Agreement" (TIFA), which establishes a framework for regular consultations and cooperation on trade and investment issues.</p>
<p>2019: The EU begins a six-month "enhanced dialogue" with Cambodia to address the concerns raised in the EBA review. The dialogue covers issues such as labor rights, land rights, and freedom of expression.</p>	<p>2007: The US lifts ban on direct bilateral aid.</p>
<p>2020: The EU announces that it will partially suspend Cambodia's EBA benefits citing serious and systematic human rights violations in the country. The suspension applies to around 20% of Cambodia's exports to the EU. The EU is considering further EBA suspension.</p>	<p>2016: The US provides duty-free access to Cambodian-made bags and travel goods under GSP.</p>
<p>The Cambodian Government has yet to initiate any major policy changes in reaction to the EU suspension.</p>	<p>2017: The US and Cambodia hold their first TIFA Council meeting in eight years, signaling a renewed commitment to bilateral trade cooperation. However, progress on trade issues remains limited, and the US continues to express concerns about labor rights and democracy in Cambodia.</p>
	<p>2020: GSP lapses subjecting Cambodia to standard tariffs and duties.</p>
	<p>2021: Biden administration announces that US Trade Representative would conduct new assessment of Cambodia's GSP eligibility.</p>

3.2 Stakeholders in the Cambodian garment sector

There are a variety of stakeholders in the Cambodian garment sector, in addition to multi-stakeholder initiatives, that broadly represent the interests of brands, workers, manufacturers and the government.

Figure 8 summarizes the landscape of stakeholders in the Cambodian garment sector.

3.2.1 Unions

Trade unions in Cambodia are highly fragmented, with approximately 6,000 factory-level unions and numerous federations and confederations of worker unions that continue to grow over time (see Table 5). Trade unions are predominantly led by men, thereby excluding women from participating in crucial decision-making processes that directly impact their livelihoods. Approximately two-thirds of unions are government-aligned and the remaining can be described as independent¹. According to Arnold (2017), pro-government unions almost operate as “direct components of the state” with the aim of diluting union membership and pursuing the interests of the Ministry of Labor and Vocational Training (MoLVT). In response, a representative from MoLVT argues that workers remain free to choose their union membership. The controversial 2016 Trade Union Law instituted a compulsory union registration process that critics argue made it extremely difficult to register independent unions and often leads to rejection due to minor errors in the process (Lawreniuk, 2022). They argue that this has further shifted union power toward government-aligned unions who are granted registration quickly. The trade union law also prohibits striking for “purely political purposes” and bans actions that would “incite or threaten or to violently disturb or coerce.” Such ambiguous clauses allow the use of arbitrary power to arrest and imprison union members. Such crackdowns were intensified during the COVID-19 pandemic (Human Rights Watch, 2022).

Table 5: Number of union organizations registered at the MoLVT as well as the Municipal/Provincial Labor Departments.

Description	2016	2017	2018	2019	2020	2021	2022	Sept 2023
Confederation of Worker Unions	18	24	28	33	36	40	40	42
Federation of Worker Unions	103	143	180	216	231	252	267	278
Local Worker Unions	3497	4132	4621	4996	5206	5442	5694	5890
Total	3618	4299	4829	5245	5473	5734	6001	6210

Source: MoLVT

3.2.2 Brands

Approximately 200 international brands purchase garments made in Cambodia including a wide array of well-known brands such as Adidas, Fruit of the Loom, H&M, Levis Strauss, New Balance, Nike, Puma, Ralph Lauren and numerous others, although brands are not always transparent about operating in the country (Fashion Revolution, 2023). The US and EU are the main source of the brands (as seen in Section 3.1) and are often represented by their respective trade associations. The main trade association for garments in the US is the American Apparel and Footwear Association (AAFA). The AAFA represents more than 1,000 companies that produce clothing, footwear, and other fashion accessories, as well as their

¹ Prior to the dissolving of the opposition Cambodia National Rescue Party (CNRP) some unions could be described as pro-opposition.

suppliers and service providers. Each year the AAFA offers a “Traceability & Sustainability Conference” that focuses on social and environmental sustainability, compliance, supply chain risk and corporate social responsibility. The main trade association for garments in the European Union is the European Apparel and Textile Confederation (EURATEX). The association represents more than 170,000 companies in the sector, ranging from small and medium-sized enterprises to large multinational corporations.

3.2.3 Factories

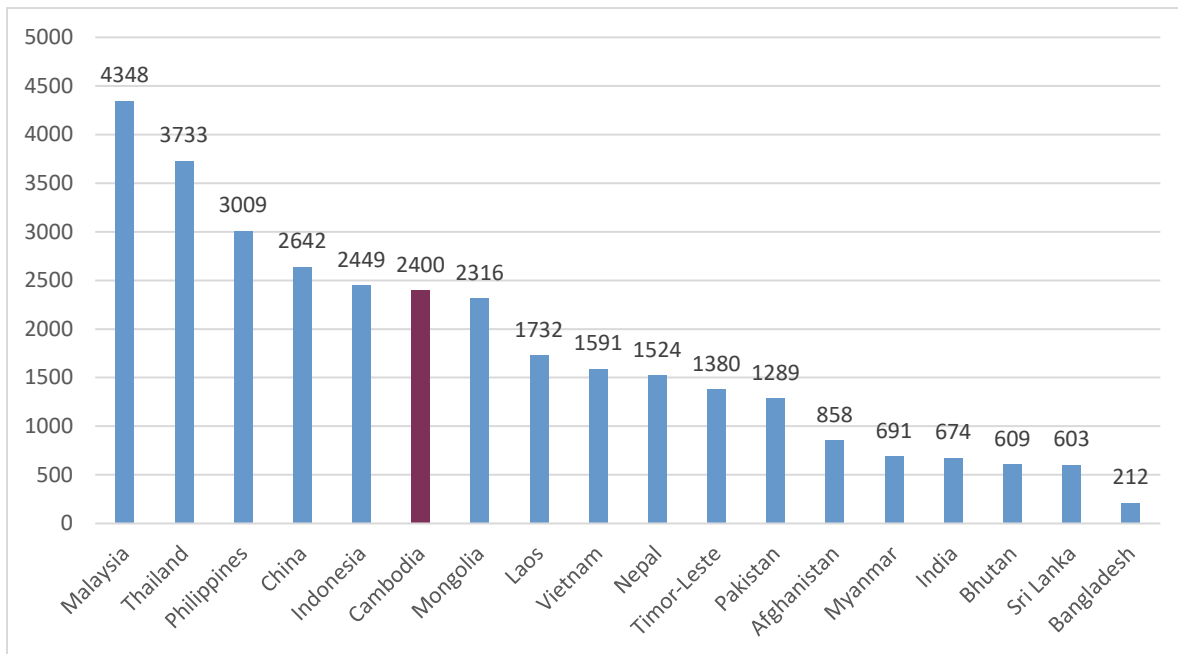
Ownership of garment factories in Cambodia is diverse with both local and foreign investors involved. According to Balchin and Calabrese (2022) approximately 90% of Cambodia's garment factories are foreign owned. However, the ownership structure varies depending on the size of the factory. Small and medium-sized factories are more likely to be owned by local investors, while larger factories tend to be owned by foreign investors. There are also numerous “cottage factories” that are subcontracted during peak seasons (Balchin and Calabrese, 2019). In terms of international sourcing networks for inputs and materials, China dominates (57.8%) followed by Vietnam (16.8%) (WTO, 2022).

The Textile, Apparel, Footwear and Travel Goods Association in Cambodia (TAFTAC) is a non-profit organization that represents the interests of manufacturers in Cambodia. TAFTAC, previously known as Garment Manufacturers Association in Cambodia (GMAC), was established in 1996 and currently has more than 690 member factories (out of 1,313 registered factories). TAFTAC's main objectives are to promote and protect the interests of its members and strengthen the competitiveness of the Cambodian garment and footwear industry. The association also provides various services and support to its members, such as training and capacity-building programs, advocacy and representation with the government and other stakeholders, and information and networking opportunities. The executive committee of TAFTAC is typically composed of representatives from prominent garment manufacturers in Cambodia. TAFTAC has been active in technical issues around sustainability such as energy efficient lighting. The Travel Goods and Leather Association and Cambodia Footwear Association are also active but less ubiquitous.

3.2.4 Royal Government of Cambodia

Labor rights in Cambodia are regulated by the Ministry of Labor and Vocational Training (MoLVT) under the 1997 labor law. In Cambodia, enforcement of labor laws and regulations is weak and many violations go unpunished. Labor conflicts at the plant level are often handled by the Arbitration Council, discussed below. Determination of the minimum wage is handled by the National Minimum Wage Council which, technically, consists of government representatives, employers, and union representatives though power over wage decisions still resides, in practice, with the MoLVT due to the voting power of government-aligned trade unions (Ford et al, 2021). Nevertheless, minimum wages in Cambodia are relatively high in comparison to other countries in Asia (see Figure 7). Sustainable energy practices and energy efficiency are regulated by the Ministry of Environment though with increasing cooperation with the Ministry of Industry, Technology, Science and Innovation. The MoLVT is the key ministry for the garment sector and is heavily involved in the enforcement and implementation of all laws.

Figure 7: Annual minimum wage in 2023 for selected Asian countries (USD nominal)



Source: World Population Review, MoLVT

3.2.5 Civil Society Organizations

Various civil society organizations exist to support workers in the sector:

The Solidarity Center is a non-profit organization that works to promote labor rights and support workers' organizations around the world. They provide training and technical assistance to labor unions and other worker organizations in Cambodia, and advocate for better working conditions.

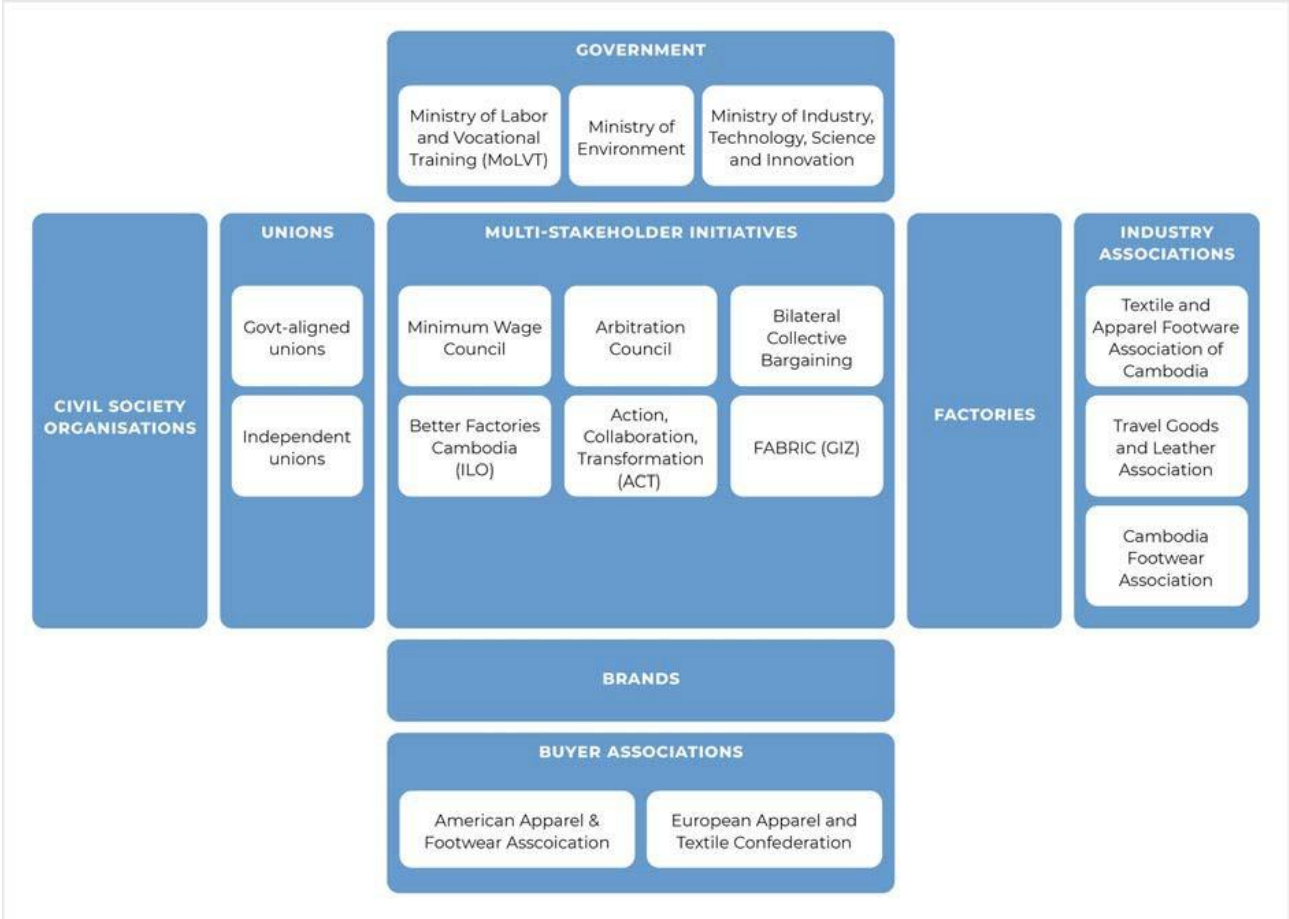
The Cambodian League for the Promotion and Defense of Human Rights (LICADHO) is a non-governmental organization that advocates for human rights and provides support to garment workers in Cambodia. They provide legal assistance to workers who have been exploited or abused by their employers, and work to improve working conditions in the garment industry.

The Worker Rights Consortium (WRC) is an independent labor rights monitoring organization that works to promote workers' rights in the global garment industry. The organization works closely with local labor groups to monitor working conditions in Cambodian garment factories and advocate for improvements.

The Asia Floor Wage Alliance (AFWA) is a regional coalition of trade unions, labor rights organizations, and advocacy groups from across Asia. It aims to establish a living wage for workers in the garment and textile industry, which is a major employer in the region.

Research suggests that the efforts of CSOs are complementary to the work of trade unions and have an impact via financial and technical assistance as well as pressure on the government during minimum wage negotiations (Li & Hu, 2023). Cambodian civil society is also active in garment worker activism (cf. Lawreniuk, 2022).

Figure 8: Stakeholder landscape of the Cambodian garment sector



3.2.6 Multi-stakeholder initiatives

3.2.6.1 Bilateral Collective Bargaining

Bilateral collective bargaining plays a significant role in the Cambodian garment sector, fostering dialogue and negotiations between employers and trade unions to address labor-related issues and establish fair working conditions. The process involves representatives from both sides engaging in discussions to reach mutually beneficial agreements on matters such as wages, working hours, benefits, and workplace safety standards. However, for unions to represent workers in collective bargaining, they must request “Most Representative Status” from the MoLVT. This can be rejected at MoLVT’s discretion and is usually granted to government-aligned unions which limits the independence of collective bargaining (Ward & Mouyly, 2016).

3.2.6.2 Arbitration Council

The Arbitration Council in Cambodia was established in 2002 as an independent and quasi-judicial institution under the Labor Law of Cambodia. It serves as a forum for resolving labor disputes between employers and workers. The main function of the Arbitration Council is to provide an alternative to the court system for resolving labor disputes. This includes disputes related to employment contracts, working conditions, wages, benefits, and other issues that arise in the workplace. The Council has the power to issue binding decisions on such disputes, which are enforceable by law, if both parties agree to the decision to be binding.

The Arbitration Council is composed of 30 arbitrators from three lists, one from the government, one from employers' associations, and one from labor unions. When a case is referred to the Arbitration Council by the Ministry of Labor and Vocational Training the employee and employer parties each select an arbitrator from their respective lists, then those arbitrators select a third one from the government list to form a panel. The Council operates on the principles of independence, impartiality, and confidentiality (Phallack, 2010).

Parties to a labor dispute can request that the Arbitration Council hear their case instead of going to court. The Council then conducts a hearing where both parties can present their arguments and evidence. After considering the evidence and arguments, the Council issues a decision within 15 working days. The decision is binding on both parties and can only be appealed to the court on limited grounds.

The 2016 Trade Union Law severely reduced the ability of trade unions to utilize the Arbitration Council and limited its autonomy (Lawreniuk, 2018). Since 2016 the number of collective dispute awards by the AC has dropped dramatically. Aside from disadvantaging workers this rising ineffectiveness of the AC has upset brands who appreciated the independence of the body. The American Apparel and Footwear Association met with the MoLVT in 2018 to ask that the independence of the AC be reinstated.²

² https://www.business-humanrights.org/documents/5909/2018-11-01_Thank_you_to_Minister_of_Labor-2.pdf

3.2.6.3 Better Factories Cambodia

Better Factories Cambodia is discussed in section 2.4.

3.2.6.4 Action, Collaboration, Transformation (ACT)

ACT is a multi-stakeholder initiative aimed at improving working conditions and labor standards in the global garment and textile industry. In Cambodia, ACT is a collaboration between international brands and retailers, trade unions, and the Cambodian government, with the goal of promoting better wages, social protection, and sustainable production practices in the country's garment sector.

ACT was launched in Cambodia in 2019, and currently has 17 brand and retailer members, including H&M, Zara, and Jack & Jones as well as six trade union federations and the Cambodian government. The initiative's approach involves setting industry-wide benchmarks for wages and working conditions, with the goal of achieving a living wage and improving access to social protection for workers in the sector via a sectoral collective bargaining agreement. However, due to the limited number of brands that have joined, TAFTAC decided to withdraw from negotiations (Business & Human Rights Resource Centre, 2019).

3.2.6.5 FABRIC

The FABRIC (Facilitating Access to Better Industrial and Employment Conditions) program is an initiative by the German development agency GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit) aimed at promoting social and environmental sustainability in the Cambodian garment sector.

Launched in 2017, the FABRIC program works with factories, trade unions, and other stakeholders to improve working conditions and environmental sustainability in the sector. Although its involvement with multiple parties classifies it as a multi-stakeholder organization, its main activities concerning occupational safety awareness, training and support are similar to those of a civil society organization rather than an initiative with legally binding obligations or provisions. This limits the initiative's impact on the sector.

4. NEW DUE DILIGENCE STANDARDS AND THE CAMBODIAN GARMENT SECTOR

4.1 Current levels of due diligence standards in Cambodia

In terms of foreign influence, Cambodia stands out among Asian countries like Vietnam and Bangladesh, with more than 90% of its factories being export-oriented and driven by foreign direct investment. This unique situation has led to reduced accountability with less emphasis on implementing practices that prioritize workers' unions, safety measures, and overall health. Industry standards that do exist can be traced back to the initial trade deals discussed above and the involvement of Better Factories Cambodia (discussed in section 2.4). Aside from BFC, some brands that operate in Cambodia have adopted various social and environmental standards (Table 5).

For environmental standards, the government has implemented laws and regulations related to environmental protection, such as the Law on Environmental Protection and Natural Resource Management and the Sub-Decree on Environmental Impact Assessment³ Many factories have paid for and implemented cheap energy-efficient measures, such as using LED lighting to save money on electricity, but investment in renewable energy sources has been limited by the fact that they operate on two-to-five-year lease agreements whereas the return on investment for a solar system is eight to 10 years. This previously frustrated factories who face pressure from buyers to install solar systems which motivated TAFTAC to lobby the government for change (EuroCham, 2022). This lobbying effort included Switch Garment, a project funded by the European Union and jointly implemented by Global Green Growth Institute (GGGI) which aims at “Promotion of sustainable energy practices in the garment sector in Cambodia.” In September 2022, the Ministry of Environment announced that, together with the Ministry of Industry, Technology, Science and Innovation, they had joined as official project partners (GGGI, 2022).

4.2 What specific issues exist in Cambodia?

This section will review a selection of issues in Cambodia relating to new due diligence standards with the objective of determining if any may be motivating issues for brands.

Heat in factories Research shows that excess heat impacts the productivity of workers in Cambodian factories (Vongchanh & Chan, 2022). In this study, surveys along with temperature and humidity measurements showed that participants experienced various heat-stress symptoms including sweating, muscle cramps, dizziness, nausea, and fainting, with 80% feeling hot and uncomfortable during 1 to 3 months of the year. Out of the surveyed workers, 41% acknowledged lower productivity due to the heat stress.

As stated by the ILO (2019:13), “Temperatures above 24–26°C are associated with reduced labor

³<https://cambodiantr.gov.kh/kcfinder/upload/files/Law%20on%20Environmental%20Protection%20and%20Natural%20Resource%20Management%20-%20EN.pdf>

productivity. At 33–34°C, a worker operating at moderate work intensity loses 50 percent of his or her work capacity.” Cambodia already experiences some of the highest temperatures in the world, with an estimated national average of 64 days per year when the maximum temperature exceeds 35°C (95°F) (World Bank Group & Asian Development Bank, 2021). Heat records were broken in Cambodia in 2023 (Cappucci, 2023).

Table 6: Examples of large brands manufacturing in Cambodia, including voluntary certifications plus labor, environmental, and transparency ratings. Brands selected based on data availability. Sorted by global revenue.

BRAND	COUNTRY	GLOBAL REVENUE	KNOWN CERTIFICATIONS	LABOR RATING (OUT OF 5)	ENVIRONMENTAL RATING (OUT OF 5)	FASHION TRANSPARENCY INDEX (OUT OF 10)
Walmart	United States	611.3 billion USD		■ ■ 2	■ ■ 2	■ 2
Nike	United States	46.71 billion USD	Fair Labor Association (FLA)	■ ■ ■ 3	■ ■ ■ 3	■ ■ ■ ■ 5
H&M	Sweden	24.8 billion USD		■ ■ ■ 3	■ ■ ■ 3	■ ■ ■ ■ ■ 6
Adidas	Germany	21.915 billion EUR	FLA Workplace Code of Conduct	■ ■ ■ 3	■ ■ ■ 3	■ ■ ■ ■ 5
GAP	United States	15.616 billion USD		■ ■ 2	■ ■ ■ 3	■ ■ ■ ■ 4
PVH	United States	9.1 billion USD		■ ■ ■ 3	■ ■ 2	■ ■ ■ ■ 5
Puma	Germany	8.465 billion EUR	FLA Workplace Code of Conduct	■ ■ ■ 3	■ ■ ■ 3	■ ■ ■ ■ 5
Lululemon	Canada	8.11 billion USD		■ ■ 2	■ ■ 2	■ ■ ■ ■ 4
Skechers	United States	7.44 billion USD		■ 1	■ 1	0
Primark	Ireland	5.593 billion GBP		■ ■ 2	■ ■ 2	■ ■ ■ 3
Uniqlo	Japan	1,1187 trillion JPY	Fair Labor Association (FLA)	■ ■ ■ 3	■ ■ ■ 3	■ ■ ■ ■ 4
Fruit of the Loom	United States	6.6 billion USD	Worldwide Responsible Accredited Production—WRAP FLA Workplace Code of Conduct	■ ■ 2	■ ■ 2	■ ■ ■ 3
Levi Strauss	United States	5.764 billion USD	Zero Discharge of Hazardous Chemicals Group (ZDHC)	■ ■ 2	■ ■ ■ ■ 4	■ ■ ■ ■ 4
Saint Laurent	France	5.57 billion EUR		■ ■ ■ 3	■ ■ ■ ■ 4	■ ■ ■ ■ 4
Next	United Kingdom	4.377 billion GBP		■ ■ 2	■ ■ 2	■ ■ ■ 3
Target Australia	Australia	2.68 billion AUD		■ ■ 2	■ ■ 2	■ ■ ■ ■ ■ 5
Children's Place	United States	1.938 billion USD		■ ■ 2	■ ■ 2	0
Wrangler	United States	1.75 billion USD		■ ■ 2	■ ■ ■ 3	■ ■ ■ 3
Matalan	United Kingdom	1.1 billion GBP	Sedex Members Ethical Trade Audit	■ ■ 2	■ ■ 2	■ 1
Benetton	Italy	1 billion EUR	Social Accountability International—SA8000	■ ■ ■ 3	■ ■ 2	■ ■ ■ ■ ■ 5

Source: Goodonyou.app, Fashion Transparency, Yahoo Finance

Parsons et al., (2022) calculated that if results in their study were generalized it would amount to a 2.75% reduction in industrial output which can be extrapolated to an average annual reduction in the value of goods exported of 290 million USD. Such impacts on garment factory productivity have also been noted in India (Mishra et al., 2023) and Bangladesh where heat has been linked to incidences of gender-based violence (Anderson Hoffner et al., 2021).

While it is difficult to find evidence of factory owners' methods of adapting to the heat, research into factory design (discussed in section 2.3) and experimental clothing for workers has been conducted (Wang et al., 2023). Addressing productivity losses is in the interests of factories but there may not be the willingness to invest in changes. This makes legal compliance relevant if excess heat is extreme enough that it could be classified as a breach of human rights. From the consumer preferences motivation, those brands adopting sustainability standards (and associated marketing) might make investments worth it.

Mass fainting: The mass fainting of workers in Cambodian factories has gained national and international attention for over a decade (Radio Free Asia, 2011). Each year more than a thousand workers fainted in various incidents and in July 2018 more than 200 workers fainted simultaneously at a shoe factory in Kampong Cham (Meta, 2018). There is no consensus as to the specific cause of the fainting with malnutrition, heat, dehydration, overtime work, mass hysteria, social protest, spiritual belief and psychological trauma (or a combination of these) all put forward as hypotheses (Kawazu & Kim, 2019). While media attention has dissipated, the issue remains topical.

Flooding: Flooding is also a common issue with 9% of workers experiencing flooding and 20% experiencing flooding in accommodations. Flooding is then connected to contaminated waters that leads to risks of disease. Such breaches of labor rights also result in diminished productivity which is estimated to reduce industrial output by 2.75%. (Lawreniuk et al, 2022). However, BFC does not include environmental indicators and there is no way to judge whether such trends have substantially infringed on the sustainability policies of international buyers or due diligence laws without further investigation.

Burning of forest wood in boilers: Garment factories need a boiler to provide steam for dyeing, drying, sizing, and printing. Factories have the choice of different sustainable fuels for these boilers including biomass pellets or briquettes, but some choose to use non-renewable forest wood harvested illegally from protected areas that damages the ecosystem while also generating higher levels of carbon emissions (Flynn & Ball, 2023). It is estimated that out of 780,000 tons of forest wood used in Cambodian industry, 300,000 tons is consumed by the garment sector (Amarthalingam, 2023).

Grievance mechanisms: Grievance mechanisms are processes put in place to address and resolve concerns, complaints, and disputes that may arise between workers and the factories they work for. These mechanisms serve as channels through which workers can voice their grievances regarding working conditions, labor rights violations, safety concerns, and other issues related to their employment. In some cases, these mechanisms are established by individual clothing brands, while in others, they may be part of industry-wide initiatives or collaborations with non-governmental organizations (NGOs) and labor rights advocates. Section 2.2 and Section 2.5 already detailed such existing grievance mechanisms in Lesotho and Tamil Nadu.

Despite individual brands running grievance mechanisms in Cambodia, there is no access to grievance mechanisms for a vast majority of workers. This is despite well-known issues of malnutrition, overtime work, and underpayment that have plagued the sector for years and represents reputational risk for brands (Human Rights Watch, 2019). Harrison & Wielga (2023) demonstrate that multi-stakeholder initiatives to establish grievance mechanisms can be superior to brand driven ones since they can also look at the brands' behavior to see if pressure for speed or cost reduction is driving abuse in factories rather than the factory owners or other worker behavior.

Trade Union Law: As discussed in section 3.2 the 2016 Trade Union Law had severe impacts on independent unions, the Arbitration Council, and workers' free exercise of the right to freedom of association. This has irritated a number of brands since it makes dispute resolution more difficult, exposes them to the reputational risk of poor workers' rights, and potential legal compliance issues around due diligence. The topic is also of interest to the United States in trade negotiations (WTO, 2017).

Table 7 applies the motivations from section 2 to these issues in the Cambodian context to try to determine which issues might generate brand interest.

4.3 What strategic leverage exists?

Aside from the possible productivity benefits of joint standards, or the marketing potential of sustainable products, the main points of leverage are the newly instituted due diligence laws. Those brands based in the European Union will soon be open to legal challenges where clear human rights and environmental standards are breached; such is potentially the case in Cambodia. Such laws are already in effect in Germany which provides the opportunity to make complaints to the Federal Office of Economics and Export Control (aka Bundesamtes für Wirtschaft und Ausfuhrkontrolle - BAFA). Current freedom of association restrictions under the Trade Union Law are highly likely to be breaches of human rights under the German law, so German brands such as Adidas and Puma might be exposed to legal action. A similar case has already been sought in Bangladesh (Annat, 2023).

The joint liability initiative provides an alternative for German and later EU brands to demonstrate proactive commitment to human rights and environmental due diligence which may offset or preempt some of the legal sanctions or remediation when reviewed by their authorities. Contributing financial capital via such a model might be preferable to incurring sanctions. This might make joint liability the least bad option and something they have partial control over rather than a legal process with the government. Even if only EU factories join the joint liability initiative, this would still have comparable coverage to the Bangladesh Accord. Alternatively, in reaction to due diligence breaches, German/EU brands may threaten to leave the Cambodian market which might put significant pressure on the Cambodian government to change the Trade Union Law for fear of losing exports to the EU. Of

course, this analysis assumes that Germany and the EU will actively enforce their due diligence laws which is an open topic of debate (Deva, 2023).

Table 7: Sustainability issues and brand motivations matrix. Yes = 1 point, Maybe = 0.5 points.

	CONSUMER PREFERENCES	REPUTATIONAL RISK	PRODUCTIVITY	TRADE AGREEMENTS	LEGAL COMPLIANCE	SCORE (OUT OF 5)
Heat in factories	Yes, consumers may be attracted to a campaign that emphasizes product was made in climate adapted factory conditions to keep workers cool	No, heat in factories is well known but is yet to cause a scandal	Yes, heat in factories is shown to reduce productivity	No, it would be unusual for a trade agreement to specify heat standards	Yes, extreme heat could be considered a breach of human rights	3
Mass fainting	Unlikely to be a marketable issue	No, happening for many years with minimal reputational damage	No, minor impacts unless large number of faintings	No, not a big enough issue	Yes, could be considered as HRDD issue if proven to be triggered by harmful factory conditions	1
Flooding	Yes, flooding is a well-known consequence of climate change so could market a product as climate conscious if flooding was reduced	No, the flooding does not seem to trigger strong reactions	Yes, but relatively minor	No, too much of a minor issue for trade agreement negotiations	Maybe, but insufficient evidence, also flooding mainly affects workers on way to work so it might be difficult to see this as part of the supply chain	2.5
Burning of forest wood	Maybe, but perhaps difficult to market or label clearly since it is complex	Maybe, it is a minor domestic scandal	No, it is less productive than wood	Maybe, in climate agreement negotiations could be relevant	Yes, likely to be environmental breach	2.5
Grievance mechanisms	Yes, if marketed correctly as supporting women's rights	Yes, it is about preventing reputational damage	No, difficult to show productivity impacts	No, not likely to be relevant	Yes, already compulsory for German companies	3
Trade union law	No, not likely that brands will promote "pro-union" products	Maybe, but insufficient media attention	No, due to tight control of industrial action	Yes, would make sense in US trade negotiations	Yes, lack of freedom of association is a breach of human rights due diligence	2.5

5. HYPOTHETICAL CONCEPT OF A CAMBODIAN NATIONAL LEVEL SUSTAINABILITY STANDARDS COMMISSION

The following section develops a hypothetical concept of a Cambodian sustainability standards commission and then evaluates the potential of the commission.

5.1 Components of the commission

This joint liability mechanism can be formed as a national-level sustainability commission that would adopt the mission of improving sustainability standards through mutual consensus. In Cambodia, the suggested members of the commission would be brands, manufacturers, and trade unions with government approval necessary plus civil society organizations and trade/industry associations as observers.

The above analysis has identified two issues that are most likely to motivate brands operating in Cambodia to opt into sustainability standards: heat in factories and grievance mechanisms. Each could be created as a separate joint liability mechanism if stakeholder interest varies greatly based on the issue. The benefit of combining it into one sustainability commission is the potential to create an institution that reviews such issues on a regular basis and achieves traction and trust between the parties. One way to initially structure the commission is to determine which issue has the most interest from stakeholders (via survey) then run it as the first issue for the sustainability commission before attempting to pursue other issues.

The mission of a Cambodian national-level sustainability commission would be establishing joint agreement on what standards are necessary to remediate the issue at hand. Each brand, manufacturer, or trade union federation would join on an opt-in basis and become a signatory such that standards decided by the commission become legally binding in contract law. All brands, manufacturers or union federations would be eligible to join. Union federations may conduct voting amongst their members or otherwise decide on whether to join the commission.

The commission would involve discussion and agreement on the standards to be achieved for Cambodian garment exports by a certain date in the future. After that date, monitoring of the new standards would be activated. If a factory was found not to meet the standards, then a plan would be developed to allow them to do so. Under the joint-liability mechanism, all parties involved in the supply chain are responsible for implementing the corrective action plan and ensuring that the violation is addressed. If any party fails to act, the other parties can take legal action to enforce compliance.

Brands signed up to the commission would not be able to utilize factories that are not signatories to the commission. If they learn that a factory is being subcontracted, they will need to get them to become a signatory or stop use of that factory. Subcontracting factories would be identified via a brand's due diligence mechanisms and shared with the commission.

Government can be seen as necessary in the Cambodian context due to its major role in setting

existing labor and environmental standards, as well as its likely interest in being involved, but government would act as an authorizer rather than a signatory to any joint liability agreement. The commission would be enforced via contract law (as with other agreements between brands and suppliers).

A steering committee could consist of equal representatives from brands, trade unions, and manufacturers. The groups would decide between themselves who would be members of this committee. The commission would also have its own dispute resolution process that involves arbitration by an independent tribunal, which would be binding on the parties involved. The commission also provides for a complaints mechanism and investigation process, which can result in remedial action being taken by the responsible parties.

Because brands would be responsible for ensuring factories have the resources to institute standards, financial remediation would need to take place. As stated in Section 4.3, certain brands would opt-in based on pressure from their due diligence obligations and to save money compared to sanctions or remediation imposed under legal compliance.

This means signatory companies commit to negotiating commercial terms with their suppliers to remediate to ensure implementation of the standards is financially feasible, particularly if the factory owner or supplier is unable to pay the compensation owed to the workers. In such cases, workers may be left without recourse or compensation, despite the existence of joint liability mechanisms. Instead of simply transferring money, this remediation may amount to longer orders, advance payments to future orders and other methods to ensure cash flow.

Unlike some other multi-stakeholder initiatives, it might be counterproductive to include wage setting in the discussions. Wages are set by the minimum wage council and if the commission countervails existing institutions this might lead to conflict and being shut down. Decisions on purchasing amounts or prices will also be outside the scope of the commission due to risks of anti-trust legislation.

A comparison of the proposed sustainability commission and other multi-stakeholder initiatives is in table 8.

Table 8: Comparison of sustainability commission to other multi-stakeholder initiatives

INITIATIVE	MEMBERS	ROLE	ENFORCEABILITY MECHANISM
Better Factories Cambodia	<ul style="list-style-type: none"> • Government • Factories • Unions 	<ul style="list-style-type: none"> • Monitoring compliance with existing labor laws 	<ul style="list-style-type: none"> • Transparency Database (“Name and shame”)
Arbitration Council	<ul style="list-style-type: none"> • Government • Unions 	<ul style="list-style-type: none"> • Dispute resolution 	<ul style="list-style-type: none"> • Non-binding (unless agreed to be bound)
ACT	<ul style="list-style-type: none"> • Government • Brands • Unions 	<ul style="list-style-type: none"> • Wages • Social protection • Sustainability standards 	<ul style="list-style-type: none"> • Voluntary (non-binding)
FABRIC	<ul style="list-style-type: none"> • Factories • Unions 	<ul style="list-style-type: none"> • Sustainability standards 	<ul style="list-style-type: none"> • Voluntary (non-binding)
Sustainability Commission	<ul style="list-style-type: none"> • Brands • Factories • Unions 	<ul style="list-style-type: none"> • Sustainability standards 	<ul style="list-style-type: none"> • Binding with joint liability enforceable in contract law

5.2 Methodology to evaluate potential commission

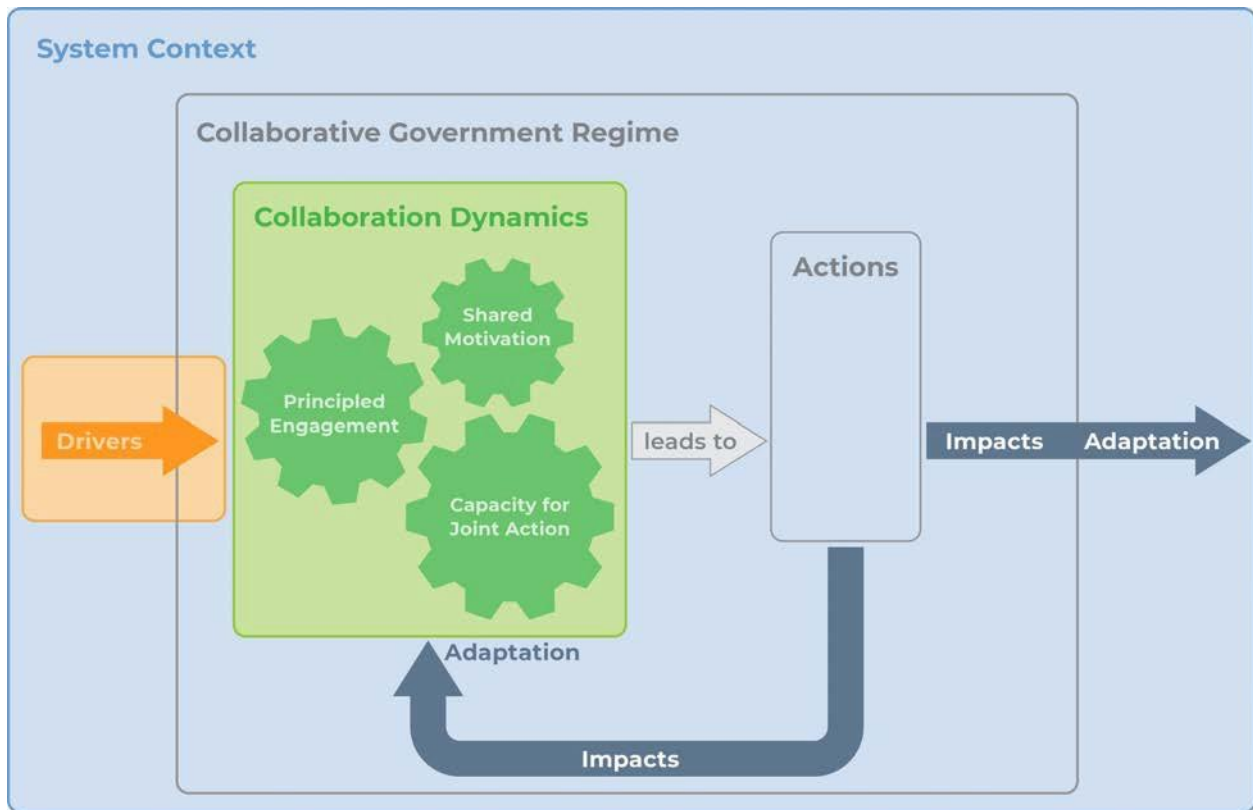
A national-level sustainability commission with multiple stakeholders is an example of collaborative governance. Collaborative governance can be defined as:

“the processes and structures of public policy decision making and management that engage people constructively across the boundaries of public agencies, levels of government, and/or the public, private and civic spheres in order to carry out a public purpose that could not otherwise be accomplished” (Emerson et al., 2012, p. 2).

To evaluate the potential of the commission it is helpful to adopt an analytical framework designed to review collaborative governance regimes. One leading framework by Emerson et al (2011) specifies the following components required for collaborative governance to have successful impacts (see figure 1):

- System context (blue box)
- Drivers (orange box)
- Collaboration dynamics (green box)
 - Principled engagement
 - Shared motivation
 - Capacity for Joint Action

Figure 9: Components of successful collaborative governance - taken from Emerson et al (2011)



Primary research was undertaken to determine if these required components exist in the Cambodian context. Sixteen semi-structured interviews were conducted with representatives of all stakeholder groups. The stakeholders interviewed are summarized in Table 9.

Table 9: List of stakeholder interviews

STAKEHOLDER	LOCATION	STAKEHOLDER	LOCATION
1 Brand 1	Cambodia	10 Union 2	Cambodia
2 Brand 2	Cambodia	11 Academic	United Kingdom
3 Development agency 1	Cambodia	12 Academic	United Kingdom
4 Development agency 2	Cambodia	13 CSO	Cambodia
5 Industry Association	Cambodia	14 CSO	Cambodia
6 Chamber of Commerce 1	Cambodia	15 Monitoring company	Indonesia
7 Chamber of Commerce 2	Cambodia	16 Multilateral Agency	Cambodia
8 Union 1	Cambodia	17 Research organization	Sweden
9 Royal Government of Cambodia (Ministry of Labour and Vocational Training)	Cambodia		

Participants were asked to share their thoughts on:

1. Current level of sustainability standards
2. Experience of breaches of standards
3. Cases of harm where standards do not exist
4. Importance of sustainability standards to the garment sector, and
5. Viability of a sustainability commission in Cambodia.

5.3 Results

5.3.1 System context

The system context is critical to the success of collaborative governance since it imposes conditions such as political, legal, cultural and resource constraints.

Cambodia is legally a closed space which is a major systemic hurdle. This means that the legality of the joint liability mechanism in Cambodia is likely to be only based on the decision of the MoLVT. This makes it imperative that the MoLVT and Cambodian Government are supportive of the commission even if they are not signatories to ensure that the mechanism is enforced under contract law.

Joint liability mechanisms can increase the costs of doing business in the garment sector as they require additional legal and financial responsibilities. These costs may be passed on to consumers by brands. If these costs are excessive relative to potential sanctions or remediation from due diligence, then brands may instead decide to simply leave the Cambodian market which could threaten the success of the sector.

With the opt-in basis, the sustainability standards may only cover a limited number of workers or factories, leaving many workers without protection. It should be clear that the commission is not a panacea for the sector but only one mechanism of action alongside labor activism, collective bargaining, and advocacy.

5.3.2 Drivers to participate

5.3.2.1 Brands

Both brands interviewed seem very aware that sustainability standards have become increasingly important to consumers, especially millennials and Gen Z. They indicated that adopting sustainability standards can help garment companies to improve their reputation and appeal to consumers who are looking for more sustainable and ethical products.

Brand1 focused on the connection between sustainability standards and productivity. Poor health and safety conditions in garment factories were acknowledged to lead to workplace accidents, injuries, and illnesses. These can result in absenteeism, high turnover rates, and low motivation and job satisfaction among workers, all of which can drag down productivity. Similarly urban flooding, rural droughts, and other extreme weather events were recognized as possible negative pressures on productivity. Brand1 also mentioned cost savings through implementing sustainability standards over the long term by improving resource efficiency, energy usage and reducing waste. For example, factories that implement energy-efficient technologies can reduce their energy bills, while those that adopt low waste practices can reduce the amount of waste they generate. This supports the productivity drivers discussed above.

Supply chain due diligence was mentioned by Brand1 as requiring their suppliers adhere to ethical and sustainable practices to reduce the risk of labor violations and supply chain disruptions, which can lead to reputational damage and financial losses (for this brand, under the potential EU Supply Chain Due Diligence Act). Brand1 suggested that their brand was active in preparing for this legislation but that there was much uncertainty around its enforcement. Brand1 believed that many factories were not aware of the impact of the laws. Brand1 were open to the idea of a commission if it would make compliance easier.

Brand2 was more focused on human rights components mentioning frustration with the current human rights situation in Cambodia specifically the Trade Union Law. Brand2 indicated that they think some form of commission is a good idea but that it should be dealing with issues around freedom of association rather than heat in factories, etc. Brand2 expressed that they would be able to shift more production to Cambodia if the human rights situation improved. Brand2 was not currently affected by due diligence legislation but regarded it as a relevant topic that was regularly discussed.

5.3.2.2 Government

A representative of the Ministry of Labour and Vocational Training (MoLVT) was interviewed at their office. The representative indicated their general support for the improvement of sustainability standards in the sector to improve working conditions. They cited the relatively high minimum wage in Cambodia and prevalence of trade unions as indicative of healthy labor rights in the country. Contrary

to critics they stated that the Trade Union Law has not hindered continued growth of trade unions and that workers are still free to join any trade union. The importance of cost to brands was highlighted as the main reason not to regulate improved standards due to the risk that higher standards could be expensive and drive away brands to cheaper countries. The main goals of the MoLVT were identified as maintaining employment levels, ensuring reasonable wage growth, and promoting good working conditions in the country. They indicated that the joint agreement of sustainability standards by stakeholders would be supported if they were in line with these goals.

Further insight into environmental policy can be garnered from official documents. The National Strategic Development Plan 2019-2023, the Cambodian government's development plan, outlines a commitment to sustainable development, with a focus on economic, social, and environmental sustainability. The plan includes targets for reducing greenhouse gas emissions, increasing renewable energy production, and promoting sustainable agriculture. In addition, Cambodia has signed and ratified the Paris Agreement, and so is committed to reducing its greenhouse gas emissions and transitioning to a low-carbon economy. To this end, the government has set targets for increasing the share of renewable energy in the country's energy mix and has released strategic plans to reduce energy used for cooling (UNEP, 2023).

If the commission could be promoted as contributing to such multilateral agreements it may be interested to support such a commission since it can form a part of their legitimacy strategy to enhance Cambodia's reputation as a responsible global citizen that is following global policy trends. This could improve the country's image, increase its international standing, and also place it as a leader within ASEAN.

5.3.2.3 Unions

Both unions were open to developing sustainability standards that can help to improve working conditions for garment workers, including improved health and safety measures, and reduced working hours.

During an interview Union1 discussed issues with heat in factories and smells from chemicals. There are also more and more issues with leaking and other plumbing problems such as sewage which was found during a factory inspection and then fixed. Union1 indicated frustration with the Arbitration Council's enforcement ability. Regarding the commission, Union1 said that TAFTAC should be present since it is so active in decision making with government. Union1 acknowledged the inability to talk to other unions and general tensions that would be difficult to overcome for a commission.

Union2 agreed that issues of heat, flooding and air pollution exist especially with older buildings. They asked factories to install new cooling fans, but it did not happen. They then contacted MoLVT and Ministry of Environment. They collected information then returned to head office. TAFTAC came to defend the factory.

Union2 suggested that participating in the development of sustainability standards can help trade unions gain access to information from brands about the industry, including production processes, supply chains, and working conditions. Union2 indicated it would be good to have government

attending but ideally people with less decision-making power to observe and demonstrate that the government will provide enforcement while not engaging in negotiations.

Despite the prevalent tensions between different unions, Union1 and Union2 both indicated it might be possible to collaborate to determine their desired standards prior to a commission meeting. This would likely involve a separate day of meetings to determine common agenda items. Both agreed with the need for brands to pay factories' costs to comply with standards.

5.3.2.4 Factories/Manufacturing Association

As more and more brands sign on to the commission there will be increasing pressure for factories to join so that they can continue to serve that brand. But the financial resources of factories may be a resource constraint if they cannot afford to institute agreed-upon standards. Remediation agreements would need to balance the perceived benefits of brands with the costs of factories for brands to agree to them.

Factory involvement in standards setting is important for evaluating the realistic financial costs of certain standards before deciding to adopt them. In the longer term, upgrades to factories are likely to lead to increased productivity and margins, especially given rising temperatures and extreme weather events.

The industry association interviewed acknowledged the increasing impacts of heat and flooding but did not note any reaction by factories and did not regard them as necessitating standards at this point. They also recognized that much work was to be done to address environmental issues such as the burning of old growth forest wood. Overall, they were interested in providing as much information as possible to members to help them deal with sustainability standards implementation.

Such promotion is the main focus of the association rather than contributing financially to the commission or being a signatory. Previously, the association has supported initiatives that have promoted sustainable energy (such as the Switch Garment Project) and seems to appreciate technical solutions, so efforts to reduce factory heat via cost-effective redesign might be attractive to them. Another benefit of the commission would be a forum to discuss impacts of due diligence laws, specifically the passing along of increased compliance costs from brands to factories, which the association is keen to avoid. If the commission is able to negotiate agreements that reduce auditing requirements (which are usually paid for by factories) this would be another incentive for factories and the association to be involved.

If unions became confident in the abilities of the commission, then they might try to insert it into collective bargaining agreements to push factories to become involved.

5.3.3 Collaborative dynamics

5.3.3.1 Principled engagement

Principled engagement refers to fair and civil discourse, open and inclusive communication, balanced by representation of different interests. This aspect will be very difficult to ensure assuming the presence of both independent and government-aligned unions. There is a high risk that government-aligned unions would attempt to dominate the union viewpoint. As stated above, one method to

attempt to ameliorate this risk is to conduct a session on a day prior to the commission meeting to determine agreed positions to take to the commission. These should be confirmed and signed in writing to ensure there is no confusion once the commission begins proceedings. Communication during the commission will also be complicated by the number of languages spoken by participants. Many manufacturers speak Chinese natively and may have limited English. Union representatives will be speaking Khmer and brands speaking English. Therefore, professional translation and the necessary audio equipment will need to be organized for the discourse to flow smoothly.

5.3.3.2 Shared motivation

Shared motivation includes mutual trust, understanding, internal legitimacy and commitment. These interpersonal and relational elements can also be termed social capital. This concept does not necessarily mean that self-interest does not exist. All parties can remain self-interested while still sharing a motivation for the commission to achieve its stated mission. Here, the shared mission is negotiating standards that are accepted by all parties. Social capital becomes important for participants to trust that other participants are dependable, reasonable, and predictable. If not, the commission will fall apart from lack of cohesion. This mutual trust can be assumed to start at effectively zero between brands and unions and perhaps higher between manufacturers and brands that have a pre-existing relationship. Again, challenges around trust and understanding exist due to animosity between independent and government-aligned unions.

If the commission can continue over time with multiple issues, then the social capital will gradually increase leading to greater shared motivation for it to continue. This is another reason to set it up as an ongoing institution rather than just a one-time contract around one issue.

5.3.3.3 Capacity for Joint Action

Capacity exists for joint action amongst the parties. Brands can provide remediation in exchange for the implementation of the agreed standards by signatory factories. The manufacturers association can engage in discovery by providing its members with information about the commission. Similarly, brand associations can inform brands about the benefits of becoming a signatory to the commission. Union federations can review the suggested standards and decide if they are sufficiently helping members, then negotiate for changes to the standards. On the sidelines, the ILO and UNEP can assist with monitoring implementation of the standards (assuming necessary financial assistance is arranged). Civil society organizations can provide a supporting role via research and advocacy plus potential systems that may potentially flow from the commission such as grievance mechanisms. Other multi-stakeholder initiatives, such as ACT and FABRIC, can form partnerships with the commission to share resources and provide support services around education and training.

5.4 Example Model

Based on the earlier framework, the following is a potential model for a sustainability commission, named here “Cambodian Commission for Sustainability standards” (CamCoSS). Importantly, the characteristics of this hypothetical commission are for illustration purposes only and would be flexible based on negotiation between the parties.

Figure 10: Example model of possible commission structure



Duration of initial agreement: 5 years

The key aspects of the agreement would be as follows:

- Joint liability: all parties agree to sustainability standards by consensus
- Government acts as authorizer, observer, and enforcer under contract law
- Home country of brand/factory (e.g., US and EU) can also be legal enforcer under contract law
- Steering Committee – equal representation of parties that meet twice per year
- Regular monitoring by ILO and UNEP (funded by brands)
- Balanced representation – 40 seats – 10 for brands, 10 for factories, 20 for unions

What the CamCoSS does **not** cover:

- Wage negotiations
- Commitment for brands to purchase certain quantities from factories
- Any replacement of workers' rights outside the commission. The decisions made are on top of labor law and international labor standards with the presence of unions there to make sure that the decided standards are to the benefit of workers.

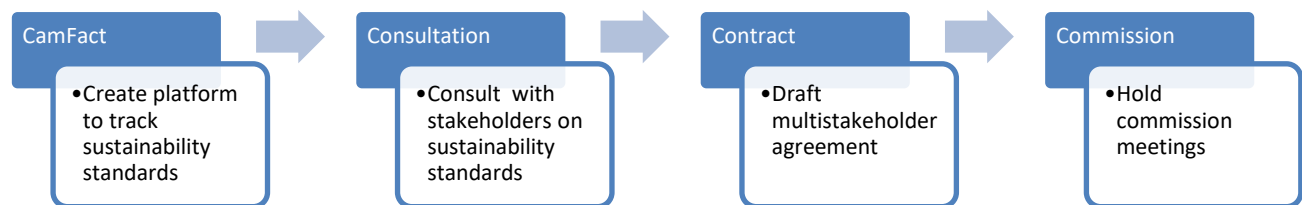
If factories are found not to be meeting the standards, then they must develop a corrective action plan and take steps to address the violation. If unwilling or unable to implement the plan, then the brand could be held jointly liable and legal action can be pursued.

6. CONCLUSIONS, RECOMMENDATIONS, AND CHALLENGES

The worldwide garment industry is in a period of transition, brands, especially in the US and EU, are increasingly adopting and enforcing new standards. Yet, these new standards sometimes have a counterproductive effect. For companies that view standards, like Germany's new Supply Chain Due Diligence Act, as difficult to comply with, the new regulations can have the unintended consequence of driving emerging market firms towards other countries without such standards.

Yet Cambodia has an opportunity to take advantage of this shift by leveraging these new standards in an enforceable joint liability framework, which could be formed as a national level multistakeholder commission. The commission could adopt the mission of improving standards through mutual consensus. In Cambodia, the suggested members of such a commission would be brands, manufacturers, and trade unions with government approval necessary plus civil society organizations and trade/industry associations as observers.

Figure 11: Potential road map to a commission



Recommendations

To this end, the following recommendations can be made:

1. **CamFact platform:** Create a platform containing information about current sustainability standards and the proliferation of standards across Cambodian factories. This transparency allows sustainability outcomes to be tracked over time.
2. **Consultation:** Consult with stakeholders on what sustainability standards are lacking in coverage or depth.
3. **Contract:** Draft multistakeholder agreement to address lacking standard(s).
4. **Commission:** Hold commission meetings to discuss and finalize agreement on new standard(s) between stakeholders.

Challenges

There are a number of challenges that will need to be addressed with regards to the commission:

1. **Tension between unions** The tension between unions is palpable, but if they do not reach agreement on their position in a commission, it will not succeed. For example, if the government-aligned unions attempt to drown out independent unions.

Suggestion: From the start, assume that the unions will not agree and try to design processes to minimize disagreements such as continual transparency, written agreements when decisions are made, and separate meetings to establish ground rules and identify common interests.

2. **Brands not opting in** Brands may not be attracted to the commission, especially if there is no threat from due diligence legislation.

Suggestion: Ensure that due diligence is a sufficient leverage point for brands

3. **Royal Government of Cambodia shutting it down** If the MoLVT perceives the commission to be unhelpful, it could quite easily shut it down.

Suggestion: Make clear to the MoLVT early that the commission is not intended to contravene any powers of the government in terms of wage setting, labor laws, or the Arbitration Council

4. **Lack of support from TAFTAC** A lack of faith in the process prevents TAFTAC from making any effort.

Suggestion: Demonstrate to TAFTAC the benefits to factories from productivity improvements funded by brands and the long-term value of a commission to the health of the sector, particularly with regards to sustainability outcomes.

5. **Cambodian factories pivot to Asia** Instead of working to improve standards that comply with EU or US standards, factories could pivot to supplying China, India or other Asian nations, thereby making the commission irrelevant.

Suggestion: Highlight to factories (and TAFTAC) the value of the market that would be lost and its negative impact on the sector.

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