

Better Work

Client Assessment Tool

Ref#:	2020 Garment CAT
Name:	2020 Garment CAT
Description:	Garment CAT
Country:	Cambodia
Section:	C - Manufacturing
Division:	14 - Manufacture of wearing apparel
Status:	Active
Modified:	10/08/2020
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Key Strengths and Process Integrity

Fact-Gathering Questions

- Q 1 (FGQ)** **Good Practices/Progress Made or Key strengths:**
- Q 2 (FGQ)** **Was the assessor's access to the enterprise unreasonably restricted?**
- Q 3 (FGQ)** **Were documents provided in a timely manner?**
- Q 4 (FGQ)** **Number of assessment visits prior to STAR Cycle 1:**
- Q 5 (FGQ)** **How many person days were spent on the assessment visit?**
- Q 7 (FGQ)** **Briefly describe the interviews with workers/ union leaders/ shop stewards:**
- Q 8 (FGQ)** **Describe any significant concerns about process integrity.**
- Q 9 (FGQ)** **Are there any issues of concern not addressed elsewhere in the report?**

Learning

Fact-Gathering Questions

- Q 10 (FGQ)** **Has management consulted with elected worker representatives, including trade unions (if present) in determining the training to be offered to workers and their representatives?**

Child Labour

Child Labourers

- Q 11 (CQ)** **Have you found any workers under the age of 15?**
Legal Reference: C138; LL Art. 177(1, 4); Prakas 307/07

Hazardous Work and other Worst Forms

- Q 12 (CQ)** **Do workers who are under age 18 perform work that is hazardous by nature?**
Legal Reference: C138, R190, C182; LL Arts. 173, 175-177; Prakas 106/04, Prakas 307/07
- Q 13 (CQ)** **Are any workers who are under age 18 working at night, or working more than 8 hours per day (including overtime)?**
Legal Reference: C182, C138, R190; LL Arts. 175, 176; Prakas 144/2002
- Q 14 (CQ)** **Does the employer subject any workers under age 18 to the unconditional worst forms of child labour?**
Legal Reference: C182

Documentation and Protection of Young Workers

- Q 15 (CQ)** **Does the employer reliably verify the age of workers prior to hiring?**
Legal Reference: C138, R146; Notice 11/03.
- Q 16 (CQ)** **Does the employer keep a register and get consent from the guardians of workers under 18 years of age?**
Legal Reference: C138, R146; LL Arts. 179, 181; Notice 11/03,

Discrimination**Race and Origin**

Q 17 (CQ)	Do recruitment materials such as job announcements or job application forms refer to the applicant's race, colour or origin? Legal Reference: C111; LL Art. 12
Q 18 (CQ)	Is an applicant's race, colour or origin a factor in hiring decisions? Legal Reference: C111; LL Art. 12
Q 19 (CQ)	Is race, colour or origin a factor in decisions regarding conditions of work? Legal Reference: C111; LL Art. 12
Q 20 (CQ)	Is race, colour or origin a factor in decisions regarding pay? Legal Reference: C111; LL Art. 12
Q 21 (CQ)	Is race, colour or origin a factor in decisions regarding opportunities for promotion or access to training? Legal Reference: C111; LL Art. 12
Q 22 (CQ)	Is there harassment of workers on the basis of race, colour or origin? Legal Reference: C111; LL Art. 12
Q 23 (CQ)	Is race, colour or origin a factor in the employer's decisions regarding termination or retirement of workers? Legal Reference: C111

Discrimination**Religion and Political Opinion**

Q 24 (CQ) **Do recruitment materials such as job announcements or job application forms refer to the applicant's religion or political opinion?**

Legal Reference: C111; LL Art. 12

Q 25 (CQ) **Is an applicant's religion or political opinion a factor in hiring decisions?**

Legal Reference: C111; LL Art. 12

Q 26 (CQ) **Is religion or political opinion a factor in decisions regarding conditions of work?**

Legal Reference: C111; LL Art. 12

Q 27 (CQ) **Is religion or political opinion a factor in decisions regarding pay?**

Legal Reference: C111; LL Art. 12

Q 28 (CQ) **Is religion or political opinion a factor in decisions regarding opportunities for promotion or access to training?**

Legal Reference: C111; LL Art. 12

Q 29 (CQ) **Is there harassment of workers on the basis of religion or political opinion?**

Legal Reference: C111; LL Art. 12

Q 30 (CQ) **Is religion or political opinion a factor in the employer's decisions regarding termination or retirement of workers?**

Legal Reference: C111; LL Art. 12

Discrimination

Gender

Q 31 (CQ)	Do job announcements refer to the applicant's gender? Legal Reference: C111, C100. LL Art. 12
Q 32 (CQ)	Is an applicant's gender a factor in hiring decisions? Legal Reference: C111, C100. LL Art. 12
Q 33 (CQ)	Is gender a factor in decisions regarding conditions of work? Legal Reference: C111, C100. LL Art. 12
Q 34 (CQ)	Is gender a factor in decisions regarding pay? Legal Reference: C111, C100. LL Art. 12
Q 35 (CQ)	Is gender a factor in decisions regarding opportunities for promotion or access to training? Legal Reference: C111, C100. LL Art. 12
Q 36 (CQ)	Is gender a factor in the employer's decisions regarding termination or retirement of workers? Legal Reference: C111, C100. LL Art. 12
Q 37 (CQ)	Are workers subject to sexual harassment? Legal Reference: C111, C100. LL Art. 12
Q 38 (CQ)	Does the employer require pregnancy tests or the use of contraceptives as a condition of employment? Legal Reference: C111, C100; LL Art.12
Q 41 (CQ)	Does the employer terminate workers who are pregnant or force them to resign? Legal Reference: LL Arts. 12, 182
Q 42 (CQ)	Does the employer terminate workers who are on maternity leave or force them to resign? Legal Reference: LL Arts. 12, 182

Discrimination

Other Grounds

Q 43 (CQ)	Is an applicant's real or perceived HIV/AIDS status a factor in hiring decisions? Legal Reference: Law on the Prevention and Control of HIV/AIDS (2002) (HIV/AIDS Law), Art. 36; Prakas 086/06, Arts. 11, 12(b, f, g)
Q 44 (CQ)	Are HIV/AIDS tests required at hiring or at any time during employment? Legal Reference: HIV/AIDS Law, Art. 20; Prakas 086/06, Arts. 11, 12(f, g)
Q 45 (CQ)	Is HIV/AIDS status a factor in decisions regarding conditions of work? Legal Reference: HIV/AIDS Law, Art. 36; Prakas 086/06, Arts. 11, 12(b)
Q 46 (CQ)	Is HIV/AIDS status a factor in decisions regarding pay? Legal Reference: HIV/AIDS Law, Art. 36; Prakas 086/06, Arts. 11, 12(b)
Q 47 (CQ)	Is HIV/AIDS status a factor in decisions regarding opportunities for promotion or access to training? Legal Reference: HIV/AIDS Law, Art. 36; Prakas 086/06, Arts. 11, 12(b)
Q 48 (CQ)	Is there harassment of workers on the basis of real or perceived HIV/AIDS status? Legal Reference: HIV/AIDS Law, Art. 36; Prakas 086/06, Arts. 11, 12(b)
Q 49 (CQ)	Is a worker's real or perceived HIV/AIDS status a factor in the employer's decisions regarding termination or retirement? Legal Reference: HIV/AIDS Law, Art. 36; Prakas 086/06, Arts. 11, 12(b, h)
Q 50 (CQ)	Are disabled persons who apply for work evaluated according to their ability to perform the job? Legal Reference: Law on the Protection and the Promotion of the rights of Persons with Disabilities (2009) (Disabilities Law), Art. 33
Q 51 (CQ)	Has the employer taken steps to reasonably accommodate physically disabled persons? Legal Reference: Disabilities Law, Art. 38
Q 52 (CQ)	Is disability a factor in decisions regarding conditions of work? Legal Reference: Disabilities Law, Art. 33
Q 53 (CQ)	Is disability a factor in decisions regarding pay? Legal Reference: Disabilities Law, Art. 33
Q 54 (CQ)	Is disability a factor in decisions regarding opportunities for promotion or access to training? Legal Reference: Disabilities Law, Art. 33
Q 55 (CQ)	Is there harassment of workers on the basis of disability? Legal Reference: Disabilities Law, Art. 33
Q 56 (CQ)	Is disability a factor in the employer's decisions regarding termination or retirement? Legal Reference: Disabilities Law, Art. 33

Forced Labour

Coercion

Q 57 (CQ) Does the employer restrict workers from leaving the workplace?

Legal Reference: C29

Q 58 (CQ) Does the employer restrict workers' freedom to come and go from the dormitories and/or the industrial park or zone in which the factory is located?

Legal Reference: C29

Q 59 (CQ) Does the employer use violence or the threat of violence to intimidate workers?

Legal Reference: C29

Q 60 (CQ) Does the employer delay or withhold wage payments in order to coerce workers to work?

Legal Reference: C29

Q 61 (CQ) Does the employer force workers to work to discipline them or as punishment for participation in a strike?

Legal Reference: C29, C105

Q 62 (CQ) Does the employer deny workers access to their personal documents (such as birth certificates, passports, work permits and ID cards) when workers need them?

Legal Reference: C29

Q 63 (CQ) Does the employer use threats such as deportation, cancellation of visas or reporting to the authorities in order to force workers to stay in their job?

Legal Reference: C29

Q 64 (CQ) Are workers free to terminate their employment with reasonable notice, and to leave their jobs when their contracts expire?

Legal Reference: C29

Bonded Labour

Q 65 (CQ) Can workers who owe debts to the employer and/or a third party freely leave their jobs?

Legal Reference: C29, C181

Forced Labour and Overtime

Q 66 (CQ) Are workers forced to work overtime under threat of penalty?

Legal Reference: C29, C1

Forced Labour

Prison Labour

Q 67 (CQ) If prison labour is used, have the prisoners freely consented to do the work; do they receive similar treatment to non-prison workers; and is the work carried out under the supervision and control of a public authority?

Legal Reference: C29

Freedom of Association and Collective Bargaining

Fact-Gathering Questions

Q 68 (FGQ) What percentage of workers are union members?

Q 69 (FGQ) How many active registered unions are there in the factory?

Q 70 (FGQ) For each active union, provide:

- The name of the union:
- Last registration date:
- The number of union leaders: # (# women)
- Total number of union members: # (# women)
- The name of the federation or confederation with which it is affiliated (if applicable):

Q 71 (FGQ) How many collective bargaining agreements are in effect in the factory?

Q 72 (FGQ) For each CBA, indicate:

- the parties
- the % of the workforce covered
- the duration of the agreement
- an overview of the issues covered

Q 73 (FGQ) How many strikes have there been since the last visit?

Q 74 (FGQ) For each strike, indicate:

- why workers went on strike
- whether the strike complied with legal requirements
- whether the strike resulted in violence
- the number of days workers were on strike
- the number of person days workers were on strike
- the outcome of the strike

Legal Reference: LL Art. 319, 320, 323, 324

Freedom to Associate

Q 75 (CQ) Can workers freely form and join a union?

Legal Reference: C87; LL Art. 266, 271.

Q 76 (CQ) Can the union(s) freely form and join federations and confederations of their choice?

Legal Reference: C87; LL Art. 275; Prakas 305/01(5)

Q 77 (CQ) Does the employer require workers to join a union?

Legal Reference: C87; LL Art. 273

Freedom of Association and Collective Bargaining

Union Operations

Q 78 (CQ)

Do union representatives have access to workers in the workplace?

Legal Reference: C87, C135, R143; Prakas 305/01

Q 79 (CQ)

Does the employer deduct union dues from wages when workers request this in writing?

Legal Reference: C87, C98, C135, R143; LL Art. 129; Prakas 305/01, Art. 5; AC 49/07 (union must be registered for dues to be deducted)

Q 80 (CQ)

Does the employer provide a place to post the names, positions, and activities of the union leaders?

Legal Reference: C87, C98, C135, R143; Prakas 305/01; Circular 40/98; AC 106/06 (employer must provide place for union to post union leaders' names, photos, positions, and activities; does not have to provide meeting room for union leaders)

Freedom of Association and Collective Bargaining

Interference and Discrimination

Q 81 (CQ)	Are workers free to meet without management present? Legal Reference: C98; LL Art. 280
Q 82 (CQ)	If there is more than one union, does the employer treat them equally? Legal Reference: C98; LL Arts. 277, 280; Prakas 305/01(5, 8, 9)
Q 83 (CQ)	Is the employer involved in union decision making, the formation of the constitution and rules, in union activities, administration, finances or elections? Legal Reference: C98, C135; LL Art. 277, 280; Prakas 305/01 (5,8,9).
Q 84 (CQ)	Does the employer provide incentives to workers to keep them from joining a union or engaging in union activities? Legal Reference: C98; LL Arts. 12, 279
Q 85 (CQ)	Is a job applicant's union membership or union activities a factor in hiring decisions? Legal Reference: C98; LL Arts. 12, 279
Q 86 (CQ)	Has the employer taken steps to manipulate the union or to bring the union(s) under its control? Legal Reference: LL 280, C.87, Art.2
Q 87 (CQ)	Does the employer punish workers for joining a union or engaging in union activities? Legal Reference: C98; LL Arts. 12, 279
Q 88 (CQ)	Does the employer threaten, intimidate, or harass workers who join a union or engage in union activities? Legal Reference: C98; LL Arts. 12, 279
Q 89 (CQ)	Has the employer terminated any worker or not renewed their contract due to the worker's union membership or activities? Legal Reference: C98, C135, C158; LL Arts. 12, 279
Q 90 (CQ)	Has the employer terminated a union official without getting permission from the Ministry? Legal Reference: C98; LL Arts. 282, 293; Prakas 305/01(3-5); AC 28/07, 112/06 (employer must be informed who is protected); AC 53/06 (protection does not apply to non-renewal of FDC)

Freedom of Association and Collective Bargaining

Collective Bargaining

Q 91 (CQ) Does the employer consult with unions where legally required?

Legal Reference: C98; LL Art. 288

Q 92 (CQ) Does the employer refuse to bargain collectively or refuse to bargain in good faith with the union, shop stewards, union federations or confederations?

Legal Reference: C98, C154, LL Arts. 96, 277, 278; Prakas 305/01(9)

Q 93 (CQ) If there is a collective bargaining agreement, are the provisions at least as favorable for workers as the law?

Legal Reference: C98; LL Art. 98

Q 94 (CQ) Does the employer provide workers access to the collective bargaining agreements?

Legal Reference: C98; Prakas 287/01; Circular 40/98

Q 95 (CQ) Has the employer failed to implement any of the provisions of the collective bargaining agreement(s) in force?

Legal Reference: C98; LL Art. 96; Prakas 287/01(3); Prakas 305/01(13)

Strikes

Q 96 (CQ) Has the employer tried to prevent any workers from participating in a strike?

Legal Reference: C98; LL Art. 319, 320

Q 97 (CQ) Has the employer hired new workers to replace striking workers during a strike?

Legal Reference: C98; LL Art. 334; AC 04/03, 08/04, 15/04

Q 98 (CQ) Has the employer punished any workers for participating in a strike?

Legal Reference: C98; LL Arts. 332, 333; AC 58/06, 80/06

Q 99 (CQ) Were security guards, the police or armed forces called by the employer to break up a peaceful strike or arrest striking workers?

Legal Reference: LL Art.330; C98; CC Art 37

Compensation

Minimum Wages/Piece Rate Wages

Q 100 (CQ) Does the employer pay at least minimum wage for ordinary hours of work to regular full time workers?

Legal Reference: LL Arts. 10, 104; MoLVT Announcement dated Oct.05, 2018

Q 101 (CQ) Does the employer pay piece rate workers correctly for ordinary hours of work when their piece rate earnings exceed minimum wage?

Legal Reference: Labour Law, Art 104; Prakas#396/17

Q 102 (CQ) Does the employer pay at least minimum wage for all types of workers other than regular workers?

Legal Reference: LL Arts. 10, 104; MoLVT Announcement dated Oct.,05, 2018

Q 103 (CQ) Is the piece rate set at a level that permits workers of average ability working normal hours to earn minimum wage?

Legal Reference: LL Arts. 104, 108; AC 81/05 (rate should be set based on average ability); Prakas#396/17

Overtime Wages

Q 104 (CQ) Does the employer pay workers 150% of their normal wage for all ordinary overtime hours worked?

Legal Reference: LL Art. 139; Prakas 80/99; AC 78/04

Q 105 (CQ) Does the employer pay workers double their normal wage for all overtime hours worked at night?

Legal Reference: LL Arts. 139; Prakas 80/99

Q 106 (CQ) Does the employer pay workers double their normal wage for all hours worked on weekly rest days?

Legal Reference: LL Art. 139; AC 82/06

Q 107 (CQ) Does the employer pay all workers correctly for work on public holidays?

Legal Reference: LL Art. 164; Prakas 10/99; AC 82/06

Q 108 (CQ) Does the employer pay all workers the correct meal allowance or give them a reasonable free meal when they work overtime?

Legal Reference: Notices 041/11, 017/00, 745/06; AC 51/07 (full meal allowance is required regardless of the number of OT hours worked); AC 141/09 (meal allowance for Sunday and public holiday work)

Premium Pay

Q 109 (CQ) Does the employer pay workers 130% of their normal wage for regular working hours worked at night?

Legal Reference: LL Art. 144

Compensation

Method of Payment

Q 110 (CQ) Are workers paid on time, twice per month?

Legal Reference: LL Art. 116; Circular 1903/08 (requiring payments twice per month, unless negotiated otherwise with the union); AC 126/09 (pay wages twice per month); AC05/07; and Prakas No. 442/18, Art. 1.

Q 111 (CQ) Are workers' full wages paid in the manner required (in cash, during working hours, at the workplace, and directly to workers)?

Legal Reference: LL Arts. 113,115.

Wage Information, Use and Deduction

Q 112 (CQ) Has the employer made any unauthorized deductions from wages?

Legal Reference: LL Arts. 28, 44, 126, 127, 129; see also R. 85

Q 113 (CQ) Does the employer keep only one accurate payroll record?

Legal Reference: LL Arts. 39-41; Prakas 269/01; see also R. 85

Q 114 (CQ) Does the employer properly inform workers about wage payments and deductions?

Legal Reference: LL Arts. 109, 112; AC 23/08 (employer should provide workers with payslip written in Khmer)

Paid Leave

Q 115 (CQ) Does the employer pay workers correctly for paid public holidays?

Legal Reference: LL Art. 162; AC 92/06

Q 116 (CQ) Does the employer pay workers correctly for annual leave?

Legal Reference: LL Arts. 166, 168; AC 27/04

Q 117 (CQ) Does the employer provide paid sick leave as required by the factory's Internal Regulations, or if there are no Internal Regulations, according to the Ministry's practice?

Legal Reference: LL Art. 166; Factory Internal Regulations; Labour Ministry Practice

Q 118 (CQ) Does the employer pay workers correctly during special leave?

Legal Reference: LL Art 171; Prakas 267/01

Q 119 (CQ) Does the employer pay workers correctly for maternity leave?

Legal Reference: LL Arts. 182, 183; AC 66/06 (calculation of payment during maternity leave)

Q 120 (CQ) Does the employer pay workers correctly for the one hour of paid time off per day for breastfeeding?

Legal Reference: LL Arts. 184, 185

Q 121 (CQ) Does the employer pay workers correctly during suspensions of work?

Legal Reference: LL Art. 72; AC 01/07 (payment for accommodation only required if it was already being paid prior to the suspension); AC 15/06, 31/07 (if workers are required to punch in, work is not suspended and workers should be paid in full)

Compensation

Social Security and Other Benefits

- Q 122 (CQ)** Does the employer pay the required employer contribution to the National Social Security Fund?
Legal Reference: Prakas 109/08 including Annex 1, 133/09
- Q 123 (CQ)** Does the employer pay workers their wages for the first day they miss work due to work-related accidents or illnesses?
Legal Reference: Law on Social Security Schemes for Persons Covered by the Labour Law, Art. 17
- Q 124 (CQ)** Does the employer pay all workers who work regularly the correct attendance bonus during leave legally required by law?
Legal Reference: LL Art. 168; Notice 230/2012; Full Bench AC Decision dated 03 October 2017.
- Q 125 (CQ)** Does the employer pay the correct attendance bonus to all new workers who start after the first of the month and to casual workers who work regularly?
Legal Reference: LL Art. 168; Notice 230/2012; AC 30/04 (attendance bonus for casual workers); AC 30/04 (attendance bonus for casual workers); AC 54/07 (no attendance bonus required when workers have 1/2 day unauthorized absence); AC 08/07 (attendance bonus does not have to be paid when workers are late); Full Bench AC Decision dated 03 October 2017.
- Q 126 (CQ)** Does the employer pay all workers the correct mandatory wage supplements (including transportation and housing allowances)?
Legal Reference: Prakas 317/13 and Guideline 01/14
- Q 127 (CQ)** Does the employer pay workers the correct seniority bonus?
Legal Reference: Prakas 317/13 and Guideline 01/14; AC 62/07
- Q 128 (CQ)** Does the employer provide transport home or a place to sleep for workers who finish work between 22:00 and 05:00?
Legal Reference: LL Art. 144; Prakas 80/99
- Q 129 (CQ)** Does the employer pay UDC workers the correct seniority indemnity?
Legal Reference: LL Arts. 89, 90, 91, 94, 110, 120, 122 (as amended); and Prakas 443/2018

Contracts and Human Resources

Fact-Gathering Questions

- Q 130 (FGQ)** How many total workers are employed by the factory?
- Q 131 (FGQ)** How many of the workers are men?
- Q 132 (FGQ)** How many regular workers are employed by the factory?
- Q 134 (FGQ)** How many probationary workers are employed by the factory?
- Q 136 (FGQ)** How many casual workers are employed by the factory?
- Q 138 (FGQ)** How many piece-rate workers are employed by the factory?
- Q 140 (FGQ)** How many of the total workforce are migrant workers?
Legal Reference: C143 Migrant Workers (Supplementary Provisions) Convention, 1975
- Q 142 (FGQ)** How many supervisors are employed by the factory?

Contracts and Human Resources
Fact-Gathering Questions

- Q 144 (FGQ)** How many of the supervisors are migrants?
- Q 145 (FGQ)** Does the factory use subcontractors to complete all or part of the production process?
- Q 146 (FGQ)** Does the factory use contractors to provide services at the factory that are not part of the production process?
- Q 147 (FGQ)** How many workers with disabilities are employed by the factory?
Legal Reference: Law on the Protection and the Promotion of the Rights of Persons with Disabilities, Art. 14.
- Q 150 (FGQ)** Has the factory received any notices of noncompliance from the Labor Ministry since the last visit?
- Q 151 (FGQ)** Does the factory have a valid business license?
- Q 152 (FGQ)** Is there an adequate HR policy that is signed by top management with a clear commitment to meet all legal requirements?
- Q 153 (FGQ)** Does the employer have an adequate recruitment procedure?
- Q 154 (FGQ)** Does the employer have adequate disciplinary and termination procedures?
- Q 155 (FGQ)** Does the employer have adequate grievance handling and dispute resolution procedures?
- Q 156 (FGQ)** Does the employer adequately assign accountability to management for following factory policies and procedures relating to Human Resource management and performance?
- Q 157 (FGQ)** Does the employer adequately communicate and implement HR policies and procedures?
- Q 158 (FGQ)** Does the employer adequately investigate performance under HR policies and procedures to identify weaknesses and make necessary adjustments?
- Q 159 (FGQ)** Did workers freely choose their representatives on the bipartite committee, and do workers know who their representatives are?
- Q 160 (FGQ)** Has there been any retaliation against worker representatives due to their activity on the bipartite committee?
- Q 161 (FGQ)** Where there is a union in the factory, does management maintain open communication channels with trade unions, and do trade union representatives have the opportunity to join the PICC?
- Q 162 (FGQ)** Is the bipartite committee used as an alternative to a trade union?
- Q 163 (FGQ)** Was the grievance mechanism developed through social dialogue between workers/ unions and managers, and are workers aware of the grievance mechanism in the factory?

Contracts and Human Resources

Employment Contracts

Q 164 (CQ) Do the employment contracts specify the terms and conditions of employment?

Legal Reference: LL Art. 67

Q 165 (CQ) Do the employment contracts comply with Cambodian labour law and with the factory's internal regulations?

Legal Reference: LL Arts. 1, 13, 65

Q 166 (CQ) Does management have a system to ensure that workers understand the terms and conditions of employment?

Legal Reference: LL 67(4)

Q 167 (CQ) Do all persons who perform work for the factory, both on the premises and offsite, have a contract?

Legal Reference: LL Art 65

Q 168 (CQ) Do the internal regulations comply with legal requirements?

Legal Reference: LL Art. 22-25, 29; Notice 14/02 Annex

Contracting Procedures

Q 169 (CQ) Do workers have to pay anyone to get a job?

Legal Reference: LL Arts. 126, 260

Q 170 (CQ) Does the employer comply with limits on the period of employment for apprentices and probationary workers?

Legal Reference: LL Art. 68 (limits on probation); Prakas 004/00 (2 year maximum on apprenticeship contracts); Notice 06/97 (2 month limit on apprenticeship in garment industry only); AC 27/03 (cutters and sewers are skilled manual workers so should be on probation maximum 2 months); AC 37/07 (maximum 2 months probation for cutting, sewing, fray-trimming, packing, quality control workers); 73/06 (ironers are non-specialized workers so should be on probation for up to 1 month)

Q 171 (CQ) Does the employer include the entire period of continuous employment when determining workers' entitlements to maternity leave, attendance bonus, seniority bonus, and/or annual leave?

Legal Reference: LL Arts. 9, 10, 73, 166, 169; Notice 017/00

Q 172 (CQ) Does the employer comply with the legal limit on the use of fixed term contracts?

Legal Reference: LL Arts. 67,73 and 89 as amended; Prakas 443/18; Instruction 050/19; Notice 23/19; and ILO Recommendation 166.

Q 173 (CQ) Have you found non-compliance with legal requirements for compensation, contracts, OSH and/or working time pertaining to non-production workers and/or sub-contracted workers?

Legal Reference: LL Arts. 10, 104 (compensation), LL Arts. 1,9,10,13, 65, 67,73, 126,166,169,260, (contracts), LL Art. 229, 230 (OSH), contracts, LL Art. 39,40, 137, 141(1), 145-147 (working time)

Contracts and Human Resources
Termination

Q 174 (CQ)	<p>Does the employer pay all outstanding wages and indemnities within 48 hours of termination?</p> <p>Legal Reference: LL Art. 116</p>
Q 175 (CQ)	<p>Does the employer only terminate workers for valid reasons?</p> <p>Legal Reference: Cambodian Constitution, Art. 46; LL Arts. 12, 71, 73, 74, 182, 279, 333; AC 73/06 (follow internal regulations when disciplining workers)</p>
Q 176 (CQ)	<p>Does the employer provide workers proper notice, and an opportunity to defend themselves before they are terminated based on their conduct or performance?</p> <p>Legal Reference: LL Arts. 73-77, 82, 284; AC 53/06 (no notice required for probationary workers), Prakas 313/00; Notice 14/02 Annex</p>
Q 177 (CQ)	<p>Does the employer pay workers the correct severance pay?</p> <p>Legal Reference: LL Arts. 73, 89, 110; AC 09/05 (no UDC termination payments when workers resign); 86/09 (calculation of UDC indemnity); AC 107/04 (severance pay required for probationary workers on FDCs)</p>
Q 178 (CQ)	<p>Does the employer pay workers their outstanding wages and the correct seniority indemnity for dismissal?</p> <p>Legal Reference: LL Arts. 89, 90, 91, 94, 110, 120, 122 (as amended); Prakas 443/2018; AC 09/05 (no UDC termination payments when workers resign).</p>
Q 179 (CQ)	<p>Does the employer compensate workers for unused paid annual leave when they resign or are terminated?</p> <p>Legal Reference: LL Arts. 166, 167</p>
Q 180 (CQ)	<p>Does the employer pay terminated workers the correct damages when required?</p> <p>Legal Reference: LL Arts. 73, 89, 91, 110</p>
Q 181 (CQ)	<p>Does the employer comply with legal requirements before suspending workers or reducing the size of the workforce due to changes in operations?</p> <p>Legal Reference: LL Arts. 71, 95, 284; Prakas 313/00; AC 08/07 (ministry should be notified when a section or group of workers is suspended for a short period (1, 2 or 3 days); AC 82/06 (suspensions include short periods (1-2 days) when there is no work)</p>

Contracts and Human Resources

Dialogue, Discipline and Disputes

- Q 182 (CQ)** **Are disciplinary measures proportional to the seriousness of workers' misconduct?**
 Legal Reference: LL Art. 27
- Q 183 (CQ)** **Have any workers been bullied, harassed, or subjected to humiliating treatment?**
 Legal Reference: LL 172
- Q 184 (CQ)** **Did the employer resolve grievances and disputes in compliance with legal requirements?**
 Legal Reference: LL Arts. 300, 301, 303, 306, 312; Prakas 317/01, 318/01, 099/04
- Q 185 (CQ)** **Does the employer comply with requirements regarding shop stewards?**
 Legal Reference: LL Arts. 285, 287, 288; Prakas 286/01
- Q 186 (CQ)** **Has the employer complied with final conciliation agreements?**
 Legal Reference: LL Arts. 301, 307, 314; Prakas 317/01, 318/01, 099/04
- Q 187 (CQ)** **Has the employer complied with arbitration awards?**
 Legal Reference: LL Arts. 301, 307, 314; Prakas 317/01, 318/01, 099/04
- Q 188 (CQ)** **Has the employer complied with court orders arising from individual or collective disputes?**
 Legal Reference: LL Arts. 301, 307, 314; Prakas 317/01, 318/01, 099/04

Occupational Safety and Health

Fact-Gathering Questions

- Q 189 (FGQ)** **Is there an adequate emergency preparedness procedure?**
 Legal Reference: OSHMS 2001, MIH 206/17. Art 13
- Q 190 (FGQ)** **Is there an adequate hazard/risk management and control procedure?**
 Legal Reference: OSHMS 2001
- Q 191 (FGQ)** **Is there an adequate accident investigation procedure?**
- Q 192 (FGQ)** **Does the employer adequately assign accountability to management for carrying out health and safety responsibilities?**
- Q 193 (FGQ)** **Does the employer adequately communicate and implement OSH policies and procedures?**
- Q 194 (FGQ)** **Does the employer adequately investigate, monitor and measure OSH issues to identify root causes and make necessary adjustments to prevent recurrence?**
- Q 195 (FGQ)** **How many work related accidents have been reported to Social Security?**
 Legal Reference: LL Art. 248, P155 and R164
- Q 196 (FGQ)** **Are there any other issues of concern not addressed elsewhere in the report related to workers'/supervisors' accommodation?**
 Legal Reference: R115

Occupational Safety and Health

OSH Management Systems

Q 197 (CQ)	<p>Is there an adequate OSH Policy that is signed by top management?</p> <p>Legal Reference: R164, LL Arts. 229, 230, 250</p>
Q 198 (CQ)	<p>Has the employer developed mechanisms to ensure cooperation between workers and management on OSH matters?</p> <p>Legal Reference: LL Arts. 229, 230, 250, Prakas 176/13, C155 and R164</p>
Q 199 (CQ)	<p>Does the employer record work-related accidents and illnesses and report them to the Ministry?</p> <p>Legal Reference: LL Arts. 248, 257; Prakas 243/02, P155</p>
Q 200 (CQ)	<p>Does the employer have legally required construction/building permits?</p> <p>Legal Reference: Sub-Decree #86/97, Arts 2, 4, 5</p>
Q 201 (CQ)	<p>Does the employer conduct regular hazards and risk assessment?</p> <p>Legal Reference: R164, LL Arts. 229, 230, 250; Prakas No.:307/07 on OSH in Garment and Footwear; and Prakas No.:176/13 OSH Induction for Workers, Shop Stewards, and Trade Unions</p>

Occupational Safety and Health

Chemicals and Hazardous Substances

- Q 202 (CQ)** **Does the employer keep an inventory of chemicals and hazardous substances used in the workplace?**
 Legal Reference: C170, LL Art. 229
- Q 203 (CQ)** **Are chemicals and hazardous substances properly labelled?**
 Legal Reference: C170, LL Art. 229
- Q 204 (CQ)** **Are chemicals and hazardous substances properly stored?**
 Legal Reference: LL Art. 229, Prakas 307/07
- Q 205 (CQ)** **Does the employer have chemical safety data sheets for the hazardous chemicals used in the workplace?**
 Legal Reference: LL Art. 229, Prakas 307/07
- Q 206 (CQ)** **Has the employer taken action to prevent and limit workers' exposure to chemicals and hazardous substances?**
 Legal Reference: LL Art. 229, Prakas 125/01, Prakas 307/07
- Q 207 (CQ)** **Has the employer effectively trained workers who work with chemicals and hazardous substances?**
 Legal Reference: LL Art. 229, Prakas 307/07
- Q 208 (CQ)** **Does the employer provide adequate washing facilities and cleansing materials in the event of exposure to hazardous chemicals?**
 Legal Reference: LL Art. 229
- Q 209 (CQ)** **Has the employer prepared for response, control and cleaning of chemical spills?**
 Legal Reference: LL Art. 229, 230
- Q 210 (CQ)** **Are chemical mixing rooms properly equipped and used?**
 Legal Reference: LL Art. 230

Worker Protection

- Q 211 (CQ)** **Are workers punished if they remove themselves from work situations that they believe present an imminent and serious danger to life or health?**
 Legal Reference: LL Arts. 229, 230, C155
- Q 212 (CQ)** **Has the employer provided workers with dust masks when necessary?**
 Legal Reference: LL Art. 229; Prakas 125/01, 138/03
- Q 213 (CQ)** **Has the employer provided workers who work with chemical substances with proper clothing and personal protective equipment when necessary?**
 Legal Reference: LL Art. 229; Prakas 125/01, 138/03
- Q 214 (CQ)** **Has the employer provided workers with metal gloves when necessary?**
 Legal Reference: LL Art. 229

Occupational Safety and Health

Worker Protection

Q 215 (CQ)	Has the employer provided workers with ear plugs when necessary? Legal Reference: LL Art. 229, Prakas 138/03
Q 216 (CQ)	Has the employer provided workers with necessary PPE to protect against wet processes when necessary? Legal Reference: LL Arts. 229, 230
Q 217 (CQ)	Has the employer provided workers with other PPE when necessary? Legal Reference: LL Arts. 229, 230
Q 218 (CQ)	Are workers effectively trained and encouraged to properly use personal protective equipment and machines? Legal Reference: LL Art. 229; Prakas 125/01; Prakas 307/07
Q 219 (CQ)	Does the employer comply with ergonomic requirements? Legal Reference: LL Arts. 229, 230; Prakas 053/00, Prakas 124/01
Q 220 (CQ)	Are guards properly installed and maintained on all dangerous machines and equipment? Legal Reference: LL Art. 230
Q 221 (CQ)	Are electrical wires, cables, switches, plugs and equipment (e.g. transformer, generator, electrical panel, circuit breakers) properly installed, grounded (for equipment), and maintained? Legal Reference: LL Art. 230
Q 222 (CQ)	Do the operators / technicians for boiler, generator, compressor, and pressure vessels have legally required permit and training? Legal Reference: LAFH Art. 30, Notice 2146/17, Notice 059/17, Prakas 176/13, Prakas 307/07
Q 223 (CQ)	Does the employer have the legally required permits for the installation and operation of boiler, generator, compressor, and pressure vessels? Legal Reference: LAFH Art. 30, Notice 2146/17, Notice 059/17, Prakas 206/17, Art.19; Prakas 176/13, Prakas 307/07
Q 224 (CQ)	Are appropriate safety warnings posted in the workplace? Legal Reference: LL Art. 230; Prakas 307/07
Q 225 (CQ)	Has the employer taken legally required measures to protect workers from falls from heights? Legal Reference: LL Art. 230

Occupational Safety and Health

Working Environment

Q 226 (CQ) Are the temperature and ventilation acceptable?
 Legal Reference: LL Art. 229; Prakas 147/02; Safety, Health and Working Conditions Training Manual; ILO Caribbean Office referencing American Conference of Government Industrial Hygienists

Q 227 (CQ) Are noise levels acceptable?
 Legal Reference: LL Art. 229; Prakas 138/03; Sub-decree 42/00

Q 228 (CQ) Is the workplace adequately lit?
 Legal Reference: LL Art. 229; Prakas 484/03

Q 229 (CQ) Is the workplace clean and tidy?
 Legal Reference: LL Art. 229; Prakas 307/07

Welfare Facilities

Q 230 (CQ) Does the workplace have adequate accessible toilets?
 Legal Reference: LL Art. 229; Prakas 052/00

Q 231 (CQ) Does the workplace have adequate hand washing facilities and adequate soap?
 Legal Reference: LL Art. 229; Prakas 052/00

Q 232 (CQ) Does the employer provide workers enough free safe drinking water?
 Legal Reference: LL Art. 229; Prakas 054/00; AC 143/09

Q 233 (CQ) Does employer provide cups or other sanitary means for drinking water?

Legal Reference: LL 229;P.054/00

Q 234 (CQ) Does the workplace have a functioning and accessible nursing room?
 Legal Reference: Labour Law Art. 186; AC Awards 63/04, 68/04, 56/11 (1), 74/11 (4) (Employer should set up nursing room for women returning from maternity leave, so they can keep their babies at work and breastfeed them until they reach 12 months of age.)

Q 235 (CQ) Does the workplace have a functioning day care centre or pay childcare costs of women employees?
 Legal Reference: Labour Law, Art. 186; AC Awards 63/04, 56/11 (1), 04/12 (6), 98/12 (5) (Employer should set up day care centre for women returning from maternity leave, so they can keep their babies at work. After a child reaches 18 months, the employer can pay the child care cost instead of providing on-site day care); AC 45/07 (payment for day care should cover children 18-36 months of age)

Occupational Safety and Health

Health Services and First Aid

Q 236 (CQ) Do workers undergo a medical examination before being employed?

Legal Reference: LL Art. 247; Joint Prakas 09/94

Q 237 (CQ) Does the employer address safety and health risks to pregnant workers or workers who are nursing?

Legal Reference: LL Arts. 182, 229, 230; Prakas 124/01 (no lifting over 5 kg), Prakas 307/07

Q 238 (CQ) Does the workplace have a functioning HIV/AIDS Committee?

Legal Reference: Prakas 086/06

Q 239 (CQ) Does the workplace have an adequately equipped and staffed infirmary?

Legal Reference: LL Arts. 242, 244, 247; Prakas 330/00; AC 03/03

Q 240 (CQ) Has the employer ensured that there is a sufficient number of readily accessible first aid boxes/supplies in the workplace?

Legal Reference: LL Arts. 229, 230

Q 241 (CQ) Has the employer provided first-aid training for workers?

Legal Reference: LL Arts. 229, 230

Worker Accommodation

Q 242 (CQ) Is the accommodation separate from the workplace (even though it may be in the same compound/industrial park)?

Legal Reference: R115

Q 243 (CQ) Is the accommodation protected against fire?

Legal Reference: R115

Q 244 (CQ) Has the employer adequately prepared for emergencies in the accommodation?

Legal Reference: R115

Occupational Safety and Health

Emergency Preparedness

Q 245 (CQ)	Does the workplace have a fire detection and alarm system? Legal Reference: LL Art. 230
Q 246 (CQ)	Does the workplace have adequate fire-fighting equipment that is within easy reach of workers? Legal Reference: LL Art. 230
Q 247 (CQ)	Has the employer trained an appropriate number of workers to use the fire-fighting equipment? Legal Reference: LL Art. 230
Q 248 (CQ)	Are emergency exits and escape routes clearly marked and posted in the workplace? Legal Reference: LL Art. 230
Q 249 (CQ)	Are there enough emergency exits? Legal Reference: LL Art. 230 Prakas 307/07
Q 250 (CQ)	Are the emergency exits inaccessible or obstructed during working hours, including overtime? Legal Reference: LL Art. 230
Q 251 (CQ)	Are the emergency exits locked during working hours, including overtime? Legal Reference: LL Art. 230
Q 252 (CQ)	Are escape routes free of obstruction? Legal Reference: LL Art. 230
Q 253 (CQ)	Does the employer conduct periodic emergency drills? Legal Reference: LL Art. 230 Prakas 307/07
Q 254 (CQ)	Are flammable materials safely stored? Legal Reference: LL Art. 229, 300; ILO, Fire Risk Management (2012)
Q 255 (CQ)	Are possible sources of ignition appropriately safeguarded? Legal Reference: ILO, Fire Risk Management (2012); LAFH, Art. 25

Working Time

Regular Hours

Q 256 (CQ) Do regular daily or weekly working hours exceed the legal limit?

Legal Reference: LL Arts. 137, 141(1)

Q 257 (CQ) Does the employer provide required weekly rest periods?

Legal Reference: LL Art. 145-147

Q 258 (CQ) Do the working time records reflect the hours actually worked?

Legal Reference: LL Art. 39, 40

Overtime

Q 259 (CQ) Is overtime work limited to two hours per day?

Legal Reference: LL Arts. 139, 141(4); Prakas 80/99

Q 260 (CQ) Is overtime voluntary?

Legal Reference: Prakas 80/99

Q 261 (CQ) Does the employer get permission from the Labour Inspector before workers work overtime?

Legal Reference: LL Art. 141; Prakas 80/99

Q 262 (CQ) Does the employer get permission from the Labor Inspector before suspending weekly rest days?

Legal Reference: LL Art. 160; Prakas 100/02

Leave

Q 263 (CQ) Does the employer give workers at least 18 days of annual leave per year and an extra day of annual leave for every three years of service?

Legal Reference: LL Arts. 166-167, 169; Notice 017/00(6); AC 08/07, 71/09

Q 264 (CQ) Does the employer give workers up to 7 days of time off for special leave per year?

Legal Reference: LL Art. 171; Prakas 267/01

Q 265 (CQ) Does the employer provide workers up to six months of time off for sick leave for an illness certified by a qualified doctor?

Legal Reference: LL Arts. 71(3), 72

Q 266 (CQ) Does the employer provide workers at least 90 days of maternity leave?

Legal Reference: LL Art. 182

Q 267 (CQ) Does the employer provide workers with time off for breast-feeding during working hours?

Legal Reference: LL Art. 184