

**KINGDOM OF CAMBODIA**  
**NATION RELIGION KING**



**DEMAND FOR GOOD GOVERNANCE  
PROJECT**

World Bank-IDA-Grant No H4410-KH

**ANNUAL PROGRESS REPORT  
2010**

**Support to the Arbitration Council**

**Prepared by: Arbitration Council Foundation**

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## **Abbreviations and Acronyms**

AC	Arbitration Council
ACF	Arbitration Council Foundation
AC/F	Arbitration Council and Arbitration Council Foundation
AP	Arbitration Panel
AusAID	Australian Agency for International Development
AWP	Annual Work Plan
BoD	Board of Directors
DFGG	Demand for Good Governance
EOI	Expression of Interest
GMAC	Garment Manufacturers Association of Cambodia
IA	Implementing Agency
IDA	International Development Association
ILO	International Labour Organization
LDR	Labour Dispute Resolution
LSD	Legal Services Department
MEF	Ministry of Economy and Finance
MOI	Ministry of Interior
MOLVT	Ministry of Labour and Vocational Training
MoU	Memorandum of Understanding
M&E	Monitoring and Evaluation
NGO	Non-Governmental Organisation
NZAID	New Zealand Agency for International Development
OWSO	One Window Service Office
PCC	Project Collaboration Committee
PCO	Project Coordination Office
PRC	Procurement Review Committee
PSA	Public Service Announcement
PUC	Pannasastra University of Cambodia
RAJP	Royal Academy of Judicial Professions
RAM	Regular Arbitrator Meeting
RULE	Royal University of Law and Economics
RFP	Request for Proposal
SAC	Secretariat of Arbitration Council
SAG	Stakeholder Advisory Group
TA	Technical Assistant
TAF	The Asia Foundation
TOR	Terms of Reference

## **1. Introduction**

The *Support to the Arbitration Council* Sub-Component (AC Sub-Component) of the Demand for Good Governance (DFGG) Project aims to improve the dispute resolution services delivered by the Arbitration Council (AC), and to expand these services throughout the country and into a broader range of industrial sectors. To this end, the AC Sub-Component, implemented by the Arbitration Council Foundation (ACF, together with the AC, AC/F), plans to use DFGG funds for strengthening the AC governance structure; providing critical capacity building activities to arbitrators and staff; developing strong and wide partnerships with relevant stakeholders and; implementing a targeted outreach and communication strategy, including improved media relations; and providing necessary training and capacity building activities for the AC's stakeholders throughout the country. Importantly, the AC Sub-Component provides for the development and implementation of strategies, which will help the Arbitration Council to become a sustainable institution into the future.

### ***1.1 Project Background***

Good governance is a critical challenge facing Cambodia in its efforts to sustain economic growth, reduce poverty and attain the Cambodia Millennium Development Goals. Accordingly, the Royal Government of Cambodia (RGC) accentuates improving governance in its Rectangular Strategy 2004-2008, the Governance Action Plan, and the Decentralization and De-concentration Strategic Framework. One important initiative of RGC in this regard is the planned DFGG Project, which will be supported by grant financing from the International Development Association (IDA) and Australian Agency for International Development (AusAID).

The development objective of the DFGG Project is to promote good governance in Cambodia in order to sustain economic growth and poverty reduction. As elsewhere, efforts to improve governance in Cambodia have focused predominantly on supply-side instruments (e.g., more effective public administration and financial management, delivery of public services, etc.). While these are necessary and useful, better and more lasting results will be achieved if complemented by increased social accountability (i.e., more demand-side engagement).

The DFGG Project aims to improve the quality of governance in Cambodia by building the capacities of institutions, and supporting programs/projects and coalitions, that promote, mediate or address demand for good governance in the context of a few key areas in RGC's reform agenda. This will result in more effective design, implementation and monitoring of key reforms, and more transparency, accountability and responsiveness of the state to citizens.

### ***1.2 Project Development Objective***

The overall objective of the AC Sub-Component of the DFGG Project is to contribute to an effective governance environment for private sector development by enhancing the extent to which a well-functioning labour arbitration system builds workers' and employers' confidence that labour disputes will be resolved effectively and fairly.

### *1.3 Project Components*

As part of the DFGG Project, the *Support to the Arbitration Council* project comprises four components and activities to be implemented during the lifetime of the DFGG Project. Those are:

**Component 1: Institutional Integrity and Sustainability: Independence, Credibility, Sustainability**

Key Activity 1: Selection/ recruitment of arbitrators: assess the need for the appointment of additional arbitrators.

Key Activity 2: Arbitration Council governance: maintain and strengthen appropriate governance structures including the ACF Board of Directors, Representatives of the Arbitration Council, Regular Arbitrator Meetings, Arbitrators' Retreat and Arbitrator Working Groups.

Key Activity 3: Sustainability: develop and implement strategies that will help to ensure the AC's institutional and financial sustainability in the long term.

**Component 2: Labour Dispute Resolution**

Key Activity 1: Resolution of Labour Dispute Cases: continue the AC/F's core work of conciliating and arbitrating labour disputes.

Key Activity 2: Capacity Building of AC/F and SAC: undertake training and other activities to develop the legal and administrative capacity of arbitrators, ACF and SAC staff.

Key Activity 3: Expansion of Arbitration Council Services: aim to expand AC's dispute resolution services throughout the country and into a broader range of industrial sectors.

**Component 3: Partnerships and Stakeholder Outreach and Training**

Key Activity 1: Establishing and maintaining partnerships: develop and maintain relationships with key partners as well as with other relevant organisations and institutions.

Key Activity 2: Dissemination of publications and other information to raise stakeholder awareness: produce, publish and disseminate arbitral awards and other relevant information in order to raise stakeholder awareness and ensure transparency.

Key Activity 3: Media relations and promotion: use media tools to promote AC/F to a wider audience.

Key Activity 4: Stakeholder training: continue to hold training sessions for relevant stakeholders to promote awareness of the AC and the labour dispute resolution process.

**Component 4: General Operation and Project Management**

Key Activity 1: Equipment and occupancy: ACF will purchase additional equipment and furniture and relocate to a larger space to accommodate the expansion in activities and increased staffing levels under DFGG. ACF will continue to provide managerial, technical and financial support to the AC.

ACF moved to the new office location at # 72, St. 592 corner of St. 327, Sangkat Boeung Kok 2, Khan Tuol Kork on 18 January 2010.

Key Activity 2: Monitoring and evaluation: ACF will maintain M&E system; and procure and coordinate with appropriate consultant/NGO/firm to conduct studies of the AC.

## **2. Executive Summary**

This is an annual progress report for 2010 of the Demand for Good Governance (DFGG) project implemented by ACF. This report covers the period from 1 January 2010 to 31 December 2010. Overall, ACF has completed majority of its key milestones in this during report. This executive summary highlights the key achievements that ACF accomplished in support of the AC during the 2<sup>nd</sup> year of the DFGG Project.

### ***Arbitration Council Governance***

Regarding governance activities, the Arbitration Council Foundation (ACF) arranged meetings of the Board of Directors (BoD) in order to achieve its project objectives. At these meetings, ACF reported on its achievements, financial matters, financial auditing of AC/F, development of the Cambodian industrial relations, and other concerns. In total, there were three meetings of the Board of Directors in 2010. The first was held on 6 May 2010 and the second was on 2 December 2010. Finally, a special BoD meeting was convened on 8 December 2010 with ACF's Executive Director in order to review his performance. All board members actively attended and participated in these meetings.

In addition, seven (7) Regular Arbitrator Meetings (RAMs) were held during this reporting period. The meetings reviewed the achievements and challenges that the AC experienced in 2009, discussed important cases that AC heard, as well as pertinent issues which arise at the AC. The topics of RAMs in 2010 included (i) the place of the Arbitration Council in the Cambodian Dispute Resolution System, and (ii) Evidence Gathering: Dealing with Confidential Information, (iii) the organisation of the National Industrial Relations Conference, (iv) Introduction on Best Practice: Evidence and Accountability, and (v) the Memorandum of Understanding (MoU) on Improving Industrial Relations in the Garment Industry, signed between Garment Manufacturers

Association of Cambodia (GMAC) and six major union federations and confederations in September 2010. The MoU sets forth binding arbitration by the Arbitration Council for rights disputes and covers all current and future members of GMAC and the unions. At the meeting in November 2010, arbitrators discussed the possible changes in the format of the Arbitral Awards of the AC, to facilitate the implementation of the MoU. Following the discussion, it was agreed that the Arbitral Awards will be divided into two parts: one for issues related to interests and the other concerning rights. It was also agreed that disputing parties bound by the MoU will be asked to sign a document in which they agree to binding arbitration for rights disputes. The aim of these changes by the AC is to enhance the enabling environment for the implementation of the historic MoU on Improving Industrial Relations in the Garment Industry.



*Photograph 1: Regular Arbitrator Meeting on 12 June 2010*

AC/F and SAC organised retreats in January and December 2010. As a result of the retreats, AC/F and SAC presented the key achievements and challenges faced in 2010 in terms of labour dispute resolution, training, work plan and other activities of AC/F and SAC. Participants actively discussed the implementation of the MoU on Improving Industrial Relations in the Garment Sector which is effective from 1 January 2011. Finally, AC, ACF and SAC affirmed their collective commitment to implement the activities for upcoming years.



*Photograph 2: AC, ACF & SAC staff retreat on 17-19 December 2010 at Sihanouk Province*

### ***Arbitration Council working groups***

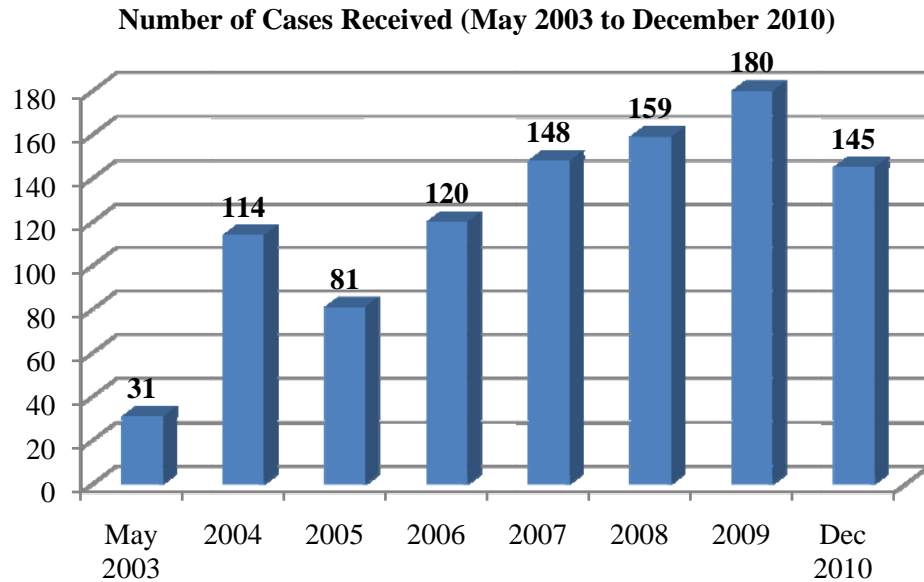
In 2010, ACF continued to utilise working groups to implement initiatives for institutional development. ACF set up three AC working groups which consist of arbitrators, ACF and Secretariat of the Arbitration Council (SAC) staff to support Arbitration Panels (AP) in terms of administrative and legal support. Working groups in 2010 developed Evidence Guidelines for use by the AP (expected completion date is March 2011) and commenced work on drafting a Conflict of Interests Policy which will apply to all arbitrators, to ensure the integrity of the arbitrators and independence of the AC (expected completion date is April 2011).

On 31 March 2010, ACF presented findings of the study to relevant ACF and SAC staff on “Understanding the Experience of Evidence Submission at AC among Employee and Employer for the Resolution of Collective Labour Disputes”. This qualitative study was designed to acquire the information directly from the parties who submit evidence to the AC, before the working group begun drafting the evidence guidelines. The participants of the in-depth survey were 22 representatives of union federations, employers, and arbitrators, who were selected for the interview based on their experience and involvement in labour dispute resolution at the AC. Then, AC/F and SAC formed a working group with arbitrators for the development of “evidence guidelines”.

### ***Labour Dispute Resolution***

In terms of labour dispute resolution, ACF played its role to facilitate and support AC’s core work of labour dispute resolution between the workers and employers in Cambodia. In this reporting period, the SAC received 145 cases of labour disputes (cases registered: 01/10 - 145/10). However, this number of cases received by the AC shows a lower number than 180 in 2009.

In resolving the labour dispute cases in 2010, the AC successfully conciliated 39 cases and issued Arbitral Awards for 98 cases. This tally disregards the registration date of the cases and includes some of the cases which were pending from the previous year. At the end of the reporting period, 6 cases were pending at the AC. With regard to the overall case outcome, the data showed that 278 (or 28.43%) out of 978 cases were conciliated by APs prior to award issuance (agreement reached prior to hearing, at the hearing, and post hearing); 652 cases (or 66.67%) were settled by the arbitral procedure; 6 cases (or 1%) were pending; and 42 cases (or 4.29%) were concluded by complainant withdrawal.



The graph above indicates the number of cases received from May 2003 until 31 December 2010. The aggregate number of cases received from 2003 to 2010 is 978 cases. Classified by sector, 92% of all cases were from the garment industry and the remaining of 8% was from non-garment sectors (including hospitality and tourism, manufacturing, and services). This is 2% lower than the target value of 10% of the cases to be received from the non-garment sector. If the figures are disaggregated by single years, then ACF received cases from non-garment sector at 14% (21 out of 145 cases) in 2010, which is higher than the target value.

The aggregate actual value of cases by location, for outside the greater Phnom Penh area was at 1% lower than the target value of annual workplan. The reason ACF has not reached the target value is because the economic activities of the disputant parties at the AC are clothing, textile and footwear factories, which are concentrated in the greater Phnom Penh area (including Kandal province).



*Photograph 3: During the hearing of Manhattan’s case on 3 June 2010*

To monitor the effectiveness of dispute resolution through the arbitration process, ACF conducts follow-up on the outcome of cases it has received, through phone calls to the relevant disputant parties, between 60-90 days after the Arbitral Awards were issued (and reported for each quarter). The overall success rate of the dispute resolution at the AC from May 2003 to the end of 2010 is at 70.11% <sup>(1)</sup>. This is a slight increase compared to 69.04% in 2009. However, when considering the success rate in a single year, of 2010, it was 75.66% compared to 70.48% in 2009, which is a significant increase.

### ***Institutional and Staff Capacity Building***

ACF has continued to deliver activities to enhance institutional and staff capacity building in support of the AC. In 2010, ACF organised a study tour to the United States of America on 22-29 May 2010 for the AC community. The delegates were Arbitrator Sin Kimsean and Arbitrator Kong Phallack of the AC; Sok Lor, Executive Director, and Mouyly Vichhra, Legal Officer of the ACF; and Chrun Theravong, Officer of SAC. The Director-General of the General Department of the Labour of the MOLVT also joined the study tour to exchange their experience with various US industrial relations experts including arbitrators and mediators of the National Academy of Arbitrators (NAA) and American Arbitration Association (AAA). The delegation met with the Director of the Federal Mediation and Conciliation Services (FMCS) to discuss the possibility of providing training for conciliators of the MoLVT and arbitrators of the AC. The delegates had a chance to discuss with Joanne Goldstein, Secretary of Labour of Massachusetts,

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<sup>(1)</sup> The criteria for calculating the success rate of the AC are shown below:

- a) facilitated an agreement between the parties to settle the dispute;
- b) issued an Arbitral Award which (even if it was opposed) has been fully or substantially implemented to resolve the dispute; or
- c) issued an Arbitral Award which (although it was opposed) has formed the basis for a post-award settlement between the parties and which resolved the dispute.

the possibility of US funding for the AC and the MoLVT. The AC delegation also shared their Cambodian knowledge and experience with academic staff and students of the Boston University, School of Law.



*Photograph 4: AC trip to the United States of America on 22-29 May 2010*

From 29 November to 10 December 2010, four delegates from the AC held an international exchange visit to Fair Work Australia (FWA), in Australia—an Australian counterpart of the AC. The delegation comprised of Arbitrator You Suonty, Arbitrator of the AC, Ms. Bo Chanveasna, Chief of the AC Secretariat, Ms. Sou Sorphea, Director of Legal Services and Mr. Vandeth Dararoath, Communications Officer. By engaging in one-to-one pair up with arbitrators and staff of FWA, the delegates gained an in-depth understanding of the overall operational system, dispute case management structure, and conciliation and arbitration skills. They found that the additional knowledge and experience are useful for advancing their capacity for labour dispute resolution, case management and communication services.

In addition, ACF and SAC staff participated in various training sessions and workshops for building their capacity in a number of areas, such as Taxation and Regulation, Gender Mainstreaming, Procurement, Office Management Skills. A course in Options and Skills in Dispute Resolution was provided by Malaysia's Judicial and Legal Training Institute and computer application, Mr. Y Samphy, Manager of Training & Communications; Mr. Vandeth Dararoath, Communications Officer; and Mr. Sar Chesda, Legal Officer peer-learned from each other about DotNetNuke, a Content Management System used for management of the website of the Arbitration Council.

A number of in-house training seminars were conducted in 2010 for the benefit of arbitrators and ACF and SAC staff by ACF's Legal Advisor. The training focused on improved communication

and management skills, incorporating topics such as Giving and Receiving Feedback, Thinking on Your Feet, Time and Stress Management and lessons from a management book, *Living Leadership*. In November 2010, ACF also commenced its new mentoring program by holding meetings between arbitrators and legal officers, so that the experienced arbitrators can help the junior officers to develop their legal skills and further their careers. ACF expects that this program will continue for a year, from November 2010 to November 2011.

As a result of the training, arbitrators and staff have reported that the skills they learn, from guidance by experts in the field greatly assist them in performing their roles at the AC, ACF and SAC towards improvement of labour dispute resolution and thereby in implementing the DFGG project.

### ***Partnership establishment and maintenance***

AC/F continued to maintain good relationships with its tri-partite stakeholders, who consist of Ministry of Labour and Vocational Training (MoLVT), union federations and employers. ACF established the Project Collaboration Committee (PCC) in order to assist ACF on coordination of joint/complementary activities throughout the DFGG Project. ACF successfully formed the Stakeholder Advisory Group (SAG) and convened its first meeting at ACF offices on 25 June 2010. There were 11 participants (two from each member of Ministry of Labour, Union Federations, and Employers, and 5 members of ACF staff). At the meeting, SAG members reviewed its Terms of Reference; were provided with an overview of the AC and ACF; given a report on ACF activities under the DFGG Project; as well as the Non-State-Actor Grants implemented by The Asia Foundation under DFGG Project, ACF expects SAG will help improve the effectiveness of the AC through establishing channels for feedback as well as promote the work of the AC to key stakeholders, through the members' associations and networks.

ACF did not organise the second SAG meeting as planned in the Annual Work Plan 2010 due partly to the emerging priority regarding the implementation of the garment industry MoU on binding arbitration. (Please read the section on Risk Management Matrix in this report for information about the impact of the garment industry MoU on the work of the AC.) However, ACF has concretely planned to organise the next SAG meeting in March 2011. The activities conducted in relation to the MoU included consultation with various partners and stakeholders concerning the effective implementation of the monumental MoU; and three information sessions for various stakeholders to promote awareness of, understanding and interest in, effective implementation of the binding arbitration by the AC.

In 2010, ACF organised several meetings to promote cooperation between AC's partners. On 29 July 2010, ACF organised an informal meeting with MOLVT officials in order to discuss the training needs of the government conciliators and opportunities for training by visiting international experts. That led to training for MOLVT conciliators on conciliation skills by an Australian arbitrator in October 2010 and ACF staff observing conciliation hearings at MOLVT in September 2010. "Meet & Greets" between the AC and representatives of workers and then with employers were conducted in order to provide a useful forum for workers and employers to directly interact with arbitrators in non-adversarial settings. During these gatherings, they expressed gratitude to the AC for the fair, reliable and effective process of labour dispute

resolution and for its programme for increasing the capacity of their staff in the preparation for and presentation of cases in arbitration hearings.



*Photograph 5: Meet & Greet between the Employees and Arbitrators on 14 August 2010*



*Photograph 6: Meet & Greet between the Employers and Arbitrators on 3 September 2010*

At the DFGG Project level, ACF partnered with other Implementing Agencies (IAs) of the DFGG project like Radio National Kampuchea (RNK) of the Ministry of Information, Ministry of National Assembly-Senate Relations and Inspection (MoNASRI), One Window Service Office (OWSO) of Ministry of Interior (MOI), and The Asia Foundation (TAF). As of December 2010, ACF had established partnerships with 25 institutions (both state and non-state institutes).

The ACF maintains relationships with partners through a Memorandum of Understanding which formalises the relationship by outlining the reciprocal obligations. As of December 2010, ACF's partners with MoU include MONASRI, RNK, Australian Institute of Mediators Arbitrators and Integrating Human to Quality (IHQ). Beside of partners with MoU, ACF established and

maintained partnership with other partners without MoU such as MOLVT, Cambodian Center for Human Rights – Cambodian Business & Human Rights, Manufacturers Association of Cambodia (GMAC), American Center for International Labor Solidarity (ACILS), Australian Business Volunteers (ABV), Australian Industrial Relations Commission (AIRC) now known as Fair Work Australia, Australian Volunteers International (AVI), Volunteering for International Development from Australia (VIDA), ILO - Better Factories Cambodia (ILO – BFC) , Cambodian Federation of Employers and Business Associations (CAMFEBA), Community Legal Education Center (CLEC), East-West Management Institute (EWMI), ILO-Labour Dispute Resolution Project (ILO – LDRP), ILO-Worker Education Project (ILO – WEP), Labour Unions, Mekong University, Pannasastra University of Cambodia (PUC), Royal Academy for Judicial Professions (RAFJP), Royal University of Law and Economics (RULE), University of Cambodia (UC) and a team of labour arbitrators and legal professionals from Boston, USA.

***Information disclosure***

The English version of the AC website – [www.arbitrationcouncil.org](http://www.arbitrationcouncil.org) – functions well following the upgrade in 2010. The website provides visitors with key information about the AC, ACF, and SAC. It also makes available published information about the AC, information for parties, arbitral decisions, reports and other labour law regulations to employers, unions, and the public. The Khmer version was expected to fully function in early 2011 for the purpose of providing access to information to Cambodian people who could not read English.

The website offers updated information about the DFGG project – component to support the AC, such as DFGG project information and procurement announcement. According to *Google Analytics*, which ACF uses to track web traffic to the AC website; there were 1,635 visits from 42 countries/territories with the majority of the visitors (83%) from Cambodia.

**Number of Visitors on AC’s website in 2010**

<b>N°</b>	<b>Country/Territory</b>	<b>Visits</b>	<b>Percent</b>
1	Cambodia	1,358	83%
2	United States	54	3%
3	Japan	33	2%
4	Australia	25	2%
5	United Kingdom	14	1%
6	Malaysia	13	1%
7	Vietnam	13	1%
8	Singapore	12	1%
9	France	11	1%
10	Switzerland	10	1%
11	Other countries	92	6%
<b>TOTAL</b>		<b>1,635</b>	<b>100%</b>

On the legal database, in 2010, ACF completed the data entry into the new database which is being used to efficiently capture information on all cases before the AC and to enable effective recall of information relating to the cases for research and follow up purposes.

Besides online accessibility to information about AC/F and labour dispute resolution, ACF keeps disseminating the Arbitral Awards (AA) in hard copies to the employers, unions, workers, and other stakeholders. Students, professors of law, researchers in the field of the labour law and interested public can obtain the compilations at Monument Books. This is part of ACF's pilot program to sustain the Arbitration Council. During the reporting period, ACF published 500 copies each in Khmer of Arbitral Award volume 12, 13, 14 and 250 copies in English for AA volume 11.

During this reporting period, ACF managed to publish promotional tools as bookmarks (1,500), *Annual Report 2009* (500 each in Khmer and English), folders (1,500), leaflets on case preparation before the Arbitration Council (1,000 each in Khmer, English and Chinese), handbook on the Labour Dispute Resolution and the Arbitration Council (1,500 each in Khmer and English), Questions & Answers (1,500 each in Khmer, English and Chinese), *Arbitrator Biography* (500 each in Khmer and English).

In 2010, ACF also made appearances in the media to promote the work of the AC. On a television talk show, ACF Executive Director spoke at this roundtable discussion, organised by PCO, at TVK — on 18 August 2010. The show focused on good governance and how the AC contributes to improved governance in Cambodia. It was televised on TVK on 29 and 30 August 2010. In addition, ACF Executive Director also spoke at *Meatophum Yoeung* (FM 101.25 KHz) on the Arbitration Council and labour dispute resolution in Cambodia. He stressed the importance of good preparation and presentation of case by the disputing parties and cool-off period during the process of the AC<sup>2</sup>. As result, this program received several calls from various locations such as Phnom Penh, Sihanouk and Kandal province. From the question and answer session with the speaker, the callers learned why it is important for parties to prepare and present their case carefully and effectively before the Arbitration Council and how could they do that; and what they could do next if the Arbitration Council closes a case due to a strike.

Moreover, the ACF library was publicly opened since mid-January 2010 for outsiders and has received some visitors. During the reporting period, ACF library received donation of about 500 books, journals, and magazines dealing with arbitration, law of employment and discrimination, dispute resolution, labour and employment law, and industrial relations from Susan Brown, labour arbitrator based in Boston, Massachusetts, US; Carmin Reiss, lawyer based in Boston, Massachusetts, US; Rosemary A. Townley, labour and employment mediator and arbitrator based in the US; Arnold Zack, labour and employment mediator and arbitrator based in the US.

ACF also organised the 5<sup>th</sup> National Industrial Relations Conference (NIRC) on 1<sup>st</sup> October, 2010 at Raffle Hotel. The theme for the NIRC this year was *Collective Bargaining for Improved Industrial Relations: Collective Solutions to Current Challenges*. The conference was well attended with about 180 participants from various organisations such as trade unions, employer associations, private companies, ILO, embassies, and civil society organisations and organisations who are working in the field of industrial relations. The conference was reported in several media agencies such as S'thapana Newspaper, Koh Santepheap Daily, Bayon TV, and Mohanorkor Radio.

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<sup>2</sup> There shall be no strikes or lockouts during conciliation or arbitration of the dispute by the Arbitration Council.



*Photograph 7: The 5<sup>th</sup> National Industrial Relations Conference on 1 October 2010*

### ***Stakeholder training***

ACF engaged in extensive efforts to increase stakeholders' awareness of the AC and the labour dispute resolution process in Cambodia. ACF delivered many training sessions to its stakeholders. For instance, ACF provided the following training in 2010: (i) employee/employer (36 persons) on Negotiation Technique and garment workers (approximately 100) on labour dispute resolution and the Arbitration Council; conciliator of MoLVT (30 trainees) from 8 provinces; (ii) lawyer (61 persons) on how to effectively prepare cases for Arbitration and labour dispute resolution in Cambodia; (iii) joint-training with Community Legal Education Center (CLEC) to legal staff of American Center for International Labour Solidarity (ACILS) and advocates of union federations (15 persons); (iv) law students (approximately 426 persons) on two separate sessions "Labour Dispute Resolution" and "Labour Dispute Resolution and the Arbitration Council"; (v) paralegals (more than 20 persons) for workers at Community Legal Education Center on how to prepare cases for the arbitration hearing; (vi) administrative and human resource staff (More than 35 persons) from various garment factories on case preparation and presentation before the Arbitration Council; (vii) NGOs in Cambodia (50 participants) on the labour dispute resolution process and the Arbitration Council; (viii) legal educators (17 persons) on training of trainers of legal framework for collective bargaining in Cambodia; (ix) conciliators (30 persons) of the MoLVT on conciliation techniques with the focus on how to best conciliate disputes between unions and unions; how to negotiate an effective Collective Bargaining Agreement (CBA); and how to convince parties to comply with CBA they already have reached; (x) Commune/Sangkat council members ( approximately 100) on conciliation techniques.



*Photograph 8: MoU information session with stakeholders on 9 December 2010*

The topic of Memorandum of Understanding on Improving Industrial Relations in the Garment Sector signed on 28 September 2010 between the Garment Manufacturers Association of Cambodia (GMAC) and six major union federations and confederations was key concern which the training should be provided to the stakeholders. The MoU states binding arbitration by the Arbitration Council for rights labour disputes, which means the AC will need certain adjustments to the process in order to facilitate the implementation of the MoU that will take effect on 01 January 2011. Hence, five training sessions on this topic was conducted in December 2010 for AC partners such as American Center for International Labor Solidarity (ACILS), Community Legal Education Center (CLEC), and Worker Information Center (WIC); labour officers of the parties to MoU; and local union activists and HR/Admin staff of the local enterprises who represent cases before the AC. As results through those meetings, the participants appreciated ACF's invitation to these meeting and praised the dedicate duty to share and disseminate them all the information. Further mover, they confirmed that those trainings were also transparent. Finally, they wished other trainings should be continued.

#### ***AC studies within M&E activities***

During this reporting period, ACF had completed two studies for the services of Baseline Study and Study on Demand for AC Service; whereas the Study to Quantify the Value of the AC Service is under procurement progress.

Through those M&E activities, in the reporting period, there are some significant outcomes emerged. Among of all indicators of project performance results, four indicators, ACF through the contract research agency, Economic Institute of Cambodia (EIC), included in the baseline study. In this study, the research agency had conducted with AC's clients and non-clients

including workers' union, union federation, and employer. The findings briefly described as following:

- ❖ First, the determination of the level of awareness of the AC was measured. Majority of the respondents indicated they are familiar with the AC (100% were clients while 52% were non-clients). In addition, 45% of respondents recognized AC from union federations/confederation but media (27%), ministry of Labour (20%), friend/colleague (11%) and other means (used to attend the training prepared by AC, attended hearing at AC). On the other hand, 61% of respondents identified AC is an institute who resolve labour dispute while 13% of respondents were aware of AC as an institute who provides hearing on labour dispute. In term of AC's role, majority of respondents known that AC is working for labour dispute resolution (77%) especially, for collective labour dispute only (73%). 77% of respondents known that AC's service is free of charge. As overall result, it indicated that 41% of union and employer organisation representatives aware of AC and labour arbitration process.
- ❖ Second, in order to measure the level of understanding of labour arbitration process, there are some questions to be asked such as the process of dispute resolution at the AC, how disputes arrive at AC, duration within which the AC resolve disputes, stages for labour arbitration at the AC and decision making by arbitrators and the possibility of the objection to these decision. As results, majority of respondents (75%) understood the labour arbitration process since they experienced in training and hearing attendance. 70% of respondents were aware of how labour dispute is solved through internal conciliation, union federation and to Ministry of Labour and Vocational Training (MoLVT) before send to the AC. Additionally, the respondents (87%) understood the arbitrator panel who decided on cases at the AC.
- ❖ In third indicator is that the determination of the level of confidence, independence, credibility and effectiveness of the AC. According to the results of findings, majority of respondents (89%) indicated AC as an independent institution because it was not biased toward any parties, and influenced by any parties. Specifically, the respondents reported that AC is more independent as compared to the court system (81%), MoLVT, Police and others because the AC were easy to access, independent from other parties, effective to resolve the dispute, trustworthy in dispute resolution, transparent work, save time and fast process. In term of credibility, most respondents (97%) expressed that AC decisions were made upon the facts, arguments and relevant laws. The respondents also rated high effectiveness of the AC because all decisions were made based on the negotiations, agreement, and transparency. In overall, it indicated that 72% of union and employer group representatives that report high confidence in the independence, credibility and effectiveness of AC.
- ❖ In the last indicator, this baseline studied on the level of confidence in the institutional capacity of the AC to undertake labour dispute resolution. Through the finding, most of respondents (92%) answered that they perceived arbitrators as having a good knowledge of Cambodia industries. Specifically, they respondents rate high in term of labour dispute resolution skill, clear explanation during the hearing, and the decisions were made clearly

written and understandable. As overall result, it indicated that 78% of union and employer group representatives that report high confidence in institutional capacity of the AC to undertake labour dispute resolution.

In another study, EIC was also selected for conduct the study on Demand for AC Service. This study was conducted in three geographic regions - Kampong Cham, Preah Sihanouk and Siem Reap – based on the Provincial Business Economic Scorecard (2006, 2009). The findings indicated that Siem Reap may be an appropriate entry especially hospitality and tourism sectors for AC to expand its geographical area. For instance, 25 out of 42 employers (60%) in Siem Reap province expressed with their interests with AC's service. This showed the possibility of expansion AC's service. Hence, ACF will keep its effort to provide its service to other provinces based on the demand. ACF expects the services will be provided in 2011 onward. In consideration of the potential demand, ACF plans to raise awareness about its services among the potential dispute parties and other stakeholders.

- General awareness-raising: From the study, there is limited awareness about the Arbitration Council, in addition to limited understanding about labour rights and ability to organise as a union among workers. Among these issues, increasing awareness about the Arbitration Council is an area under the control of the ACF, while ACF is not in an appropriate position to take direct steps to promote labour rights and organise a union due to the importance of maintaining its neutrality among potential users. For 2011, the ACF will broadcast public service announcements through radio and TV. The public service announcement aims to raise the awareness about the labour dispute resolution process and the labour arbitration process at the Arbitration Council among the potential parties and general public. Other media tools will also be broadcast in addition to the public service announcements. With their increased awareness about the labour dispute resolution process and the arbitration process, it is intended that future parties resolve their disputes peacefully through the process.
- Trainings for provincial labour officers: Provincial labour officers, including those from target provinces such as Siem Reap, Sihanoukville, and Kampong Cham, are the front-line authority that responds to a collective labour dispute when it happens. It is important that they understand their role as dispute resolution officers and that they refer the cases they cannot resolve to the Arbitration Council in a speedy manner. In consideration of their important role, in 2011 the ACF will increase the trainings on labour dispute resolution process and the arbitration process among the provincial labour officers.

Currently, ACF has been in discussion with the identified applicant, Cambodian Development Research Institute (CDRI) to determine the scope of work and other relevant details pertaining to the assignment. In addition, it may spend times to finalise its research methodology in order to fulfil the study's objectives. For the Broadcast Media Tools (public service announcement/training video), ACF completed its procurement process with World Bank. In the meantime, ACF and WMC agreed and signed contract on December 21, 2010 in order to produce one PSA and video training. They are expected that the production will be completed by mid October 2011. The Sustainability study was delayed since this study will be conducted after the

completion of the study on the value of AC services. Similar to the Sustainability Study, the Sustainability and Fundraising Consultant is expected to commence fund-raising activities following the results of the Study to Quantify the Value of the Arbitration Council Services.

### 3. Sectoral Issues that Emerged Over the Year

The delay in procurement and other issues impacted ACF's project implementation as follows:

AC studies: The Study to Quantify the Value of the AC Service is under procurement process. The procurement is undertaken by the International Procurement Agency (CKP), pending pre-contract negotiation with the applicant. This study spent lot of discussions between research agency, and ACF to refine the research methodology in order to response its objectives because its findings will be important for Council. Hence, the Sustainability study was also delayed since this study will be conducted after the completion of the study on the value of AC services. Similar to the Sustainability Study, the Sustainability and Fundraising Consultant is expected to commence fund-raising activities following the results of the Study to Quantify the Value of the Arbitration Council Services.

Select firm to produce soap opera/PSA/training video/media consultant was contracted in December 21, 2010 with Women Media Center (WMC). However, the procurement process took approximately for few months to complete. Finally, ACF and WMC agreed and signed contract on December 21, 2010 in order to produce one PSA and video training. They are expected that the production will be completed by mid October 2011.

### 4. Project Implementation Summary Compare to PIP

This section reports on the significant achievements made by the ACF on the key project activities as compare to milestones and Project Implementation Plan (PIP). The table does not compare the accomplishments made within the Year One of DFGG Project against the proposed outputs as stated in the project proposal.

**Table 1: Work Progress against Project Implementation Plan (PIP)**

No.	Key Activities	Description of Activity	Remarks
<b>Component 1: Institutional Integrity and Sustainability</b>			
1.1	<i>Selection/ recruitment of arbitrators</i>	Assess the need for additional arbitrators	Completed: ACF assessed need and determined no additional arbitrators were required in 2010.
1.2	<i>Arbitration Council governance</i>	ACF Board of Directors	Completed: <ul style="list-style-type: none"> <li>• 1<sup>st</sup> BoD Meeting on 06 May 2010</li> <li>• 2<sup>nd</sup> BoD Meeting 02 December 2010</li> <li>• Special BoD meeting on 08<sup>th</sup></li> </ul>

			December 2010
		Representative of the AC	Completed: This refers to activities of RAC, not only meetings in order to shares and solved the problems.
		Regular Arbitrator Meeting	Completed: Several arbitrator meetings were held in order to discuss various issues and share knowledge to ways of improving their labour dispute resolution services.
		Arbitrator Retreat	Completed: Two retreats of AC/F and SAC organised for January and 17-19, December 2010.
		Arbitrator Working Group	Completed: Two working group formed, Evidence Guideline, & Conflict of Interests Policy.
1.3	Sustainability	Study on economic value	Completed for ToR of Quantify Value; Sustainability Study. TOR of Fundraising Consultant is reviewed by the World Bank.
		Sustainability study	Delayed. ACF has finalised negotiation on technical proposal with CDRI. ACF is waiting to receive the final revised technical and financial proposal from CDRI.
		Select fundraising consultant	Delayed. (to be procured after the completion of the Study to Quantify the Values of the AC Service)
<b>Component 2: Labor Dispute Resolution</b>			
2.1	<i>Resolution of Labour Dispute Cases</i>	Hearing labour dispute	Completed: AC received 145 cases from various sectors such as garment, hospitality/hotel, manufacturing, services and others.
		SAC admin support to AP	Completed: SAC played important role to support the AP such as case registration, contact to the parties ...etc.
		ACF legal support to AP	Completed: Legal Service Department team provide technical and legal support to AP for all cases.
2.2	<i>Capacity Building of AC/F and SAC</i>	Develop tool/material (benchbook, database)	Completed: Benchbook and database were developed in

		order to support the AC.
	Continued professional dev't program for arbitrators (capacity building & foreign trainer visit)	Completed: <ul style="list-style-type: none"> <li>• 15 – 19 May: US trainer delegation delivered training sessions</li> <li>• 27 Sep – 02 Oct: Australian expert trainer Commissioner Michael Gay delivered training on statutory interpretations, drafting of arbitral awards, etc.</li> </ul>
	Training & exchange visit & international conference	Completed: <ul style="list-style-type: none"> <li>• May 2010: the AC delegation team visited US from 22 to 31 May 10</li> <li>• September 2010: Mr. Sok Lor attended International Buyers Forum in Hochiminh City, Vietnam, to present on the benefits of binding arbitration by the Arbitration Council.</li> <li>• November 27 – December 13: Director of LSD, Chief of Secretariat, Training and Communication, Arbitrator attend the internship program in Australia.</li> <li>• 21 June – 1 July 2010: Arbitrator Pen Bunchhea attended Options and Skills in Dispute Resolution organised by Malaysian Technical Cooperation Programme in Malaysia.</li> </ul>
	SAC capacity building	Completed: SAC staff often received trainings through in-house training with Legal Service Department of ACF. For example, on 27 November– 13 December 2010, Chief of Secretariat, Training and Communication, Arbitrator attend the internship program in Australia. An SAC staff member went on an exchange visit to the US from 22 to 31 May 10.

		ACF capacity building (training course & retreat)	<p>Completed:</p> <ul style="list-style-type: none"> <li>• 02 October: training on <i>Conflict of Interests</i> for LSD</li> <li>• 02 October: training on statutory interpretation and burden of proof, for LSD and SAC</li> <li>• 27 October: follow-up training on “giving and receiving feedbacks”</li> <li>• 10 November: training on <i>Best practice in decision making: Evidence, Facts and Findings</i> for LSD.</li> <li>• 17 November: training on <i>Best practice in decision making: Reasons and Accountability</i> for ACs during RAM.</li> <li>• 19 November: following-up on “thinking on your feet”</li> <li>• 18 December: <i>Time and Stress Management</i> during the retreat</li> <li>• 22 December: <i>Living the Leadership</i> for SAC, ACF</li> </ul>
2.3	<i>Expansion of AC services</i>	Study on demand for AC service in difference area	Completed: This study was completed in August 2010. Its findings was shared with AC, SAC, ACF in better understanding about the demand of the service of AC.
		Mobile teams at regional, provincial level (partnership, outreach and training, mobile hearing, etc)	Completed: A mobile hearing was held in Siem Reap in early of February 10. It will be held depend on the demand.
<b>Component 3: Partnerships and Stakeholder Outreach and Training</b>			
3.1	<i>Establishing and maintaining partnerships</i>	DFGG Project Collaboration Committee	Completed: PCC met on 06 April 10 and 24 August 2010 respectively
		Stakeholder Advisory Group	<p>Incomplete:</p> <ul style="list-style-type: none"> <li>• SAG was formed on June 10</li> <li>• First meeting was held on 25 June 10</li> <li>• Another meeting planned for 2011 due to emerging priorities concerning implementation of the</li> </ul>

			garment industry MoU on binding arbitration by AC
		Meet & greet with employee/employer	Completed <ul style="list-style-type: none"> <li>• 14 August: Meeting and Greets with employees representatives</li> <li>• 03 September: Meeting and Greets with employer representatives</li> </ul>
		National Industrial Relation Conference	Completed: <ul style="list-style-type: none"> <li>• Conference held on 01 October</li> </ul>
		Membership in professional bodies	Completed: ACF keeps it relation with other bodies.
		Establish and maintain institutional relation with other dispute resolution bodies	Completed: ACF builds good relationship with existing and potential partners: <ul style="list-style-type: none"> <li>• Mid-September: ACF hosted Ms. Angelica Nikolausoon, legal intern from Macquarie University, in Sydney, Australia. This is also in partnership with Australian Volunteers International.</li> <li>• In August: ACF completed the applications for international interns from Boston University School of Law, and Northeastern University in Boston, MA, USA, pending further exchanges</li> </ul>
3.2	<i>Disseminate publications and other information to raise stakeholder awareness</i>	Website maintenance and improvement	Completed: ACF's website in English was regularly maintained and updated. Especially, all arbitral awards were updated regularly. The Khmer content would updated and function fully in 2011.
		Publication of arbitral award	Completed: <ul style="list-style-type: none"> <li>• AA vol. 12, 13, and 14 in Khmer printed in September 2010</li> </ul>
		Development and publication of other tools	Completed: <ul style="list-style-type: none"> <li>• Sep: AC bookmarks, annual reports 2009 published</li> <li>• Dec: Benchbook, bulletin published.</li> </ul>

			<ul style="list-style-type: none"> <li>• Case preparation leaflet</li> <li>• Updated arbitrator bio</li> <li>• Updated Q&amp;A</li> </ul>
		AC library	Completed: Library is open to public.
3.3	<i>Media relations and promotion</i>	Media & communication consultant	Completed: Following discussion among management, it was decided that a media & communications consultant was unnecessary.
		Soap opera	Delayed: World Bank recommended ACF to procure this service after the completion of training video and public service announcement
		Public service announcement	Delayed: It is the same package in broadcast media tool. Women Media Center commenced work on PSA in December 2010
		Training video	Delayed. (It is the same package in broadcast media tool) Women Media Center commenced production of training video in December 2010
		RNK/talkback	Completed: <ul style="list-style-type: none"> <li>• 28 June: ACF Director spoke on labor Dispute Resolution Process in Garment Industry</li> <li>• 29 Aug: TVK broadcast ACF director on a roundtable discussion on DFGG</li> <li>• 18 Nov: ACF Director spoke on Labour Dispute Resolution Process and Arbitration Council on FM101.25MHz, Meotophum Radio.</li> </ul>
		Annual media campaign	Not applicable in this period and it will carry on 2011.
		Media briefing	Completed: <ul style="list-style-type: none"> <li>• 17 September, at the Cambodian Club of</li> </ul>

			Journalists, organised by PCO
3.4	<i>Stakeholder training</i>	Employees/employers in Phnom Penh	Completed. <ul style="list-style-type: none"> <li>• More than 10 training sessions on labour dispute resolution process and case preparation were conducted in 2010.</li> <li>• MoU Topics were also delivered to employees and employers in December 2010.</li> </ul>
		Employees/employers in province	Delayed. New training priorities emerged as a result of the garment industry Memorandum of Understanding involving binding arbitration by the AC.
		Conciliators	Completed: <ul style="list-style-type: none"> <li>• Training delivered on 16 March</li> <li>• 30 Sep: ACF organised a training for Conciliators at the MoLVT office</li> </ul>
		Provincial labor officers	Delayed: Due to the prioritize tasks to deliver training to employers and employees.
		Court clerks	Delayed: Due to the prioritize tasks to deliver training to employers and employees.
		Student judges	Delayed: Due to the prioritize tasks to deliver training to employers and employees.
		Advocates	Completed. <ul style="list-style-type: none"> <li>• Sessions delivered on 25 February and 27 June for CLEC-selected advocates and 04 March for ACILS advocates.</li> </ul>
		Lawyer students	Completed. <ul style="list-style-type: none"> <li>• Trainings conducted on 18 March and 09 June.</li> </ul>
		Law student at universities	Completed: <ul style="list-style-type: none"> <li>• 20 February: LDR training for Cambodian-Japanese Law students at RULE</li> </ul>

			<ul style="list-style-type: none"> <li>• 9 June: Training on LDR process for RULE’s Legal Clinic students</li> <li>• Training delivered on 02 Aug for law students of RULE</li> <li>• 16 August: Q&amp;A session with legal clinic students</li> <li>• 21 Sep: Ms. Kim Sonya, ACF Legal Advisor, delivered a lecture on labour dispute resolution to law and business students at Mekong University of Cambodia</li> <li>• 28 Sep: ACF organised a mock arbitration at Pannasastra University of Cambodia</li> <li>• 5 December: Training on ADR and arbitration for RULE’s Legal Clinic students</li> </ul>
<b>Component 4: General Operations and Project Management</b>			
4.1	Equipment and occupancy	Salary	Completed: Salary provided to staff regularly.
		Occupancy	Completed: utilities, rental etc have been paid.
		Supplies	Completed: stationeries, kitchens supplies, electrical supplies are used and paid to suppliers.
		Equipment	Incomplete: Procurement of the rest of equipment underway.
		Contractual services	Complete: contract for office equipment maintenance, auditing financial statement 2009, maintenance and license extention of accounting software with Neeka limited, proof reading of 19 AC arbitral awards.
4.2	Project monitoring and evaluation	Maintain M&E system	Completed: ACF keep maintain M&E system in order to monitor and evaluate the progress of the project.

	Coordinate with NGO to conduct Baseline Study	Completed: Baseline study were completed since August 2010 which conducted by EIC.
	Result output monitoring on monthly and quarterly basis (case receive, success rate, legal toolkits, capacity building, material produce and disseminate, etc)	Completed: ACF kept monitoring share the results outputs on monthly and quarterly basis to PCO and stakeholders.
	Select individual consultant for the assessment of quality of arbitral award	Incomplete: ACF has sent a minute of negotiation to sign and expected to commence to work on January 15, 2011.
	Coordinate with individual consultant for assessment of quality of arbitral award	Delay: It planned to conduct in 2011.
	Procure and coordinate with firm to conduct media monitoring	Delay: ACF identifies that there is no firm provide for that service.
	Coordinate with PCO in conducting evaluation studies of outcome indicators (i.e., institutional capacity, staff capacity building, number of partnership formed, etc.)	Completed: ACF worked closed with PCO and PCO M&E firm in coordination in various aspects based on PCO demand such as Baseline study, training ...etc.
	Implement and update GGF and RMM	Completed: ACF had regularly submitted the 1 <sup>st</sup> , 2 <sup>nd</sup> quarter, 3 <sup>rd</sup> quarter and annual.

**Table 2: Work Progress against Key Milestones**

<b>N°</b>	<b>Description of Planning Activities</b>	<b>Further Comments</b>
1	Conduct Baseline study	Completed: Baseline study was conducted and completed by EIC since August 2010. It was already shared with AC/F, and SAC staff.

2	Conduct study on demand for AC services in different areas	Completed: Baseline study was conducted and completed by EIC since August 2010. It was already shared with AC/F, and SAC.
3	Convene Stakeholder Advisory Group	Completed: ACF formed and organised SAG meetings as they also played very important role for improvement the industrial relations.
4	Convene Project Collaboration Committee	Completed: ACF organised few meetings on the following dates: <ul style="list-style-type: none"> <li>• 1<sup>st</sup> meeting held on 06 April 10</li> <li>• 2<sup>nd</sup> meeting held on 24 Aug</li> </ul>
5	Select NGO/firm for study to quantify the value of AC services	Incomplete: CKP has organised contract negotiation. ACF has finalised technical discussion with CDRI in December 2010. ACF is waiting for final revised technical and financial proposals from CDRI.
6	Conduct study to quantify the value of AC services	Delay: since its contract negotiation is underway.
7	Update GGF/RMM	Completed: ACF had updated the 1 <sup>st</sup> , 2 <sup>nd</sup> Quarter, 3 <sup>rd</sup> quarter & Annual and submitted to PCO.
8	Select Firm for sustainability study	Delayed: In consultation with WB, the study will be conducted after the completion of Study to Quantify the Values of AC Service
9	Conduct sustainability study	Same as above.
10	Organize capacity building sessions of AC	Completed: This is a series of sessions throughout the year. As results, staff capacities were improved.
11	Convene governance sessions of AC	Completed: AC met, joined by Legal Services Department and the Secretariat of the Arbitration Council.
12	Select consultant for Fundraising Activity	Incomplete: In consultation with Bank, this item is postponed. It will be conducted after study on AC value is complete.
13	Conduct awareness raising and knowledge building training for AC stakeholders	Completed: ACF organised the trainings in order to improved raise the awareness and increased knowledge to AC stakeholder by the below dates: <ul style="list-style-type: none"> <li>• trainings were organised by Feb 10</li> <li>• 5 trainings were organised by March 3 were organized in June 10</li> <li>• 4 organised in Sep 10</li> </ul>

		<ul style="list-style-type: none"> <li>• 5 organised in Dec 10</li> </ul>
14	Select firm to produce soap opera/PSA/training video/media consultant	Completed: The contract signed on 21 December 2010 with WMC for 1 PSA and 1 training video
15	Develop soap operas, public services announcements, training video <sup>(7)</sup>	Delayed: These will be started after the procurement completed.
16	Develop/update legal system and tool for labour dispute resolution work of AC	Completed: ACF developed database in order to keep all the data for labour dispute resolution such as case managements.
17	Develop/update training curriculum/material for AC stakeholders	Completed: All materials of the trainings were developed and updated by Training and Communication Departments in collaboration Legal Service Departments.
18	Organise and conduct National Industrial Relations Conference	Completed: ACF organised a NIRC on 01 Oct 2010.
19	Form/maintain partnerships	Completed: ACF formed and kept maintained its partners from various sectors where also worked to improve the industrial relations. In total, ACF had 25 partners during this reporting period.
20	Conduct media briefing on labor dispute resolution	Completed: ACF organisation a media briefing on 17 Sept 2010 which attended by various journalists in Cambodia.

## 5. Results and M&E Indicators and Internal Progress Monitoring Findings

			2010		Data Collection and Reporting		
No.	Indicators	Baseline	Target Value	Actual Value	Frequency and Reports	Data Collection Instruments	Responsibility for Data Collection
<b>Project Outcome Indicators</b>							
<i>Core Indicators (to be aggregated at the overall DFGG level)</i>							
1	Number of labor dispute cases handled by the AC	148	10% increase (or 163 cases)	145 Cases (or appx 10% lower than target for 2010)	Quarterly collection and reporting	ACF case log and database	ACF
2	% of labor dispute cases successfully resolved through AC process	approx. 68% [2008]	Actual value	70.11% (as at 4 <sup>th</sup> quarter 2010)	As above	ACF case log and database	ACF
3	% of union and employer group representatives and other stakeholders that report a high confidence in the independence, credibility and effectiveness of the AC	72% [2010]	- (2.5% increase in 2011; to be calculated in mid 2011, through follow-up evaluation)	- (follow up by mid 2011)	Annual; recorded in Annual Report	Surveys and FGDs of union and employer group representatives and some other stakeholders	ACF through contracted research agency
<b>Outcome Indicators for Each Component</b>							
<u>Component 1 – Institutional Integrity and Sustainability:</u> <u>Objective:</u> To ensure the independence, credibility and sustainability of the AC							
<i>Core Indicators (to be aggregated at the overall DFGG level)</i>							

4	% of AC, SAC, and ACF staff that report an increased understanding and institutional capacity to perform their respective roles in the labor arbitration and dispute resolution processes	To be calculated in YR 1	- (70% by mid 2011)	-	Annual; recorded in Annual Report	Survey of SI staff and ratings from KIIs and FGDs	PCO in MOI through contracted research agency in consultation with ACF <sup>3</sup>
5	% of union and employer group representatives that report high confidence in institutional capacity of the AC to undertake labor dispute resolution	78% [2010]	2.5 % increase by 2011	To be calculated in mid-2011	Annual; recorded in Annual Report	Surveys and FGDs of union and employer group representatives	ACF through contracted research agency
6	% of AC, SAC, and ACF staff that report an increased effectiveness of the AC process	To be calculated in YR 1	- (70% by mid 2011)	-	Annual; recorded in Annual Report	Survey of SI staff and ratings from KIIs and FGDs, and comparison with objective data (case load, success rate, etc.)	PCO in MOI through contracted research agency in consultation with ACF <sup>4</sup>
7	% of union and employer group representatives and other stakeholders that report a high confidence in the independence, credibility and effectiveness of the AC	72% [2010]	-	-	Annual; recorded in Annual Report	Surveys and FGDs of union and employer group representatives and some other stakeholders	ACF through contracted research agency
8	Expert rating (%) of quality of awards given by the AC	To be calculated in mid 2011	-	-	Bi-annual; recorded in applicable Annual report	Bi-annual audit by an expert for a sample of AC awards	Independent expert(s) contracted via ACF (procurement under progress)
9	Revenue generated through tri-partite contributions by AC as % of operating costs	US\$ 217,529 (total amount under commitment to raise during DFGG project cycle]	US\$ 45,465	0 <sup>5</sup> (100% below target)	Annual; recorded in Annual Report	ACF financial records	ACF

<sup>3</sup> ACF to review the ToRs for the contracted research agency, and to advise on and agree to that agency's evaluation tools, wording of questionnaires, etc.

<sup>4</sup> ACF to review the ToRs for the contracted research agency, and to advise on and agree to that agency's evaluation tools, wording of questionnaires, etc.

<sup>5</sup> ACF is in discussion with an international buyer for contribution of funds to support ACF for 2011.

		[2008]					
<b>Component 2 – Labour Dispute Resolution:</b>							
<b>Objective:</b> To increase the AC’s capacity to resolve labour disputes across the country							
<b>Core Indicators (to be aggregated at the overall DFGG level)</b>							
11	Number of labor dispute cases handled by the AC	148 [2008]	10% increase (or 163 cases)	145 Cases (or appx 10% lower than target for 2010)	Quarterly collection and reporting	ACF case log and database	ACF
12	% of labor dispute cases successfully resolved through AC process	approx. 68% for Garments + PNP [2008]	Actual value	70.11% (as at 4 <sup>th</sup> quarter 2010)	As above	ACF case log and database	ACF
<b>Component 3 – Partnerships and Stakeholder Outreach and Training:</b>							
<b>Objectives:</b>							
1. To establish and maintain partnerships to strengthen AC/F							
2. To improve stakeholders’ awareness and understanding of the AC and of how to resolve labour disputes							
<b>Core Indicators (to be aggregated at the overall DFGG level)</b>							
16	Number of partnerships between AC and SIs and NSAs established or continued under the project – disaggregated by type 1 and 2 <sup>6</sup>	16 [2008]	Actual value	25 partners	Annual; recorded in Annual Report	Compiled from progress reports	ACF
17	% of relevant stakeholders (including AC, ACF, MOLVT, ILO, partner agencies involved, etc.) rating high effectiveness of the partnerships established under project	To be calculated in YR 2	-	-	Bi-annual; recorded in applicable Annual report	Mid-term and end-term targeted survey, KIIs, and FGDs of staff of involved institutions, experts, and other stakeholders relevant to SI-NSA partnerships	PCO in MOI through contracted research agency in consultation with ACF <sup>7</sup>

<sup>6</sup> The project will use the following definition for partnerships - "A partnership is a collaborative relationship between entities to work toward shared objectives through a mutually agreed division of labor". Strictly, by this definition commercial relationships should not be regarded as partnerships. Recognizing, however, that in the specific context of the project and given the lack of such relationships between SIs and NSAs in Cambodia, some direct commercial relationships that reflect elements of ‘partnership’ will be separately tracked as well. The total number of partnerships will be the sum of these two forms of relationships. The PCO will make a case-by-case determination of whether a particular relationship should be categorized as a partnership or not.

<sup>7</sup> ACF to review the ToRs for the contracted research agency, and to advise on and agree to that agency’s evaluation tools, wording of questionnaires, etc.

18	Number of new or existing partnerships for which AC/ACF (i) expresses interest, (ii) makes a concrete plan, and (iii) takes the first steps to continue engagement beyond life of project.	To be calculated in YR 4	-	-	-	One-off; recorded in Final Completion Report for project	End term survey using KIIs with SI and NSA management and IA progress reports	PCO in MOI through contracted research agency in consultation with ACF <sup>8</sup>
19	% of union, employer organization representatives aware of AC and labor arbitration process  (Baseline and periodic evaluations will capture sectors beyond Garments, and areas beyond Phnom Penh)	41% [2010]	10% increase by 2011	(To be calculated in follow-up evaluation by mid 2011)		Bi-Annual; recorded in relevant Annual Report	Baseline study conducted with surveys and focus group discussions, with groups of union and employer representatives. For the baseline study, the composition of these groups was representative of their distribution in targeted sectors in the formal economy. Mid-term and end term follow-up studies are expected to follow same approach. Detailed methodology is provided in the Baseline Study that has been concluded.	ACF through contracted research agency
20	Level of understanding (as % scoring high on rating scale) of labor arbitration process among union and employer organization groups	52% [2010]	-	5% increase	5% increase	Bi-Annual; recorded in relevant Annual Report	Baseline study conducted with surveys and focus group discussions, with groups of union and employer representatives. For the baseline study, the composition of these groups was representative of their distribution in targeted sectors in the formal economy. Mid-term and end term follow-up studies are expected to follow same approach. Detailed methodology is provided in the Baseline	ACF through contracted research agency

<sup>8</sup> ACF to review the ToRs for the contracted research agency, and to advise on and agree to that agency's evaluation tools, wording of questionnaires, etc.

									Study that has been concluded.
<b>Component 4 – General Operations and Project Management:</b>									
<b>Objective:</b> To provide managerial and technical support to AC									
<b>Core Indicators (to be aggregated at the overall DFGG level)</b>									
21	ACF undertakes independent monitoring through NSAs	Yes	Yes	Yes	Yes	Yes	Annual Working Plans	tracked in progress reports	ACF
22	ACF uses information from independent monitoring through NSAs to take management and/or corrective actions	Yes	Yes	Yes	Yes	Yes	Annual; recorded in Annual Report	tracked/explained in progress reports	ACF
23	AC/ACF(i) expresses interest, (ii) makes a concrete plan, and (iii) takes the first steps to undertake new or continue existing DFGG activities beyond the life of the project.	To be calculated in YR 4	-	-	-	Yes	One-off; recorded in Final Completion Report for project	End term survey, FGDs, and KIIs, of SI and NSA management and leadership; IA progress reports showing objective data.	PCO in MOI through contracted research agency in consultation with ACF <sup>9</sup>

<sup>9</sup> ACF to review the ToRs for the contracted research agency, and to advise on and agree to that agency's evaluation tools, wording of questionnaires, etc.

## 6. Annual Financial Summary

### 6.1 Summary of Project Expenditure by Category as of 31 December 2010

#### + IDA Grant

Expenditure By Categories		Budget	Actual	Depletion Rate	Balance
1A.1	Goods	77,385.00	56,201.48	0.73	21,183.52
1A.2	Consulting Services	263,781.50	58,618.33	0.22	205,163.17
1A.3	Training and Workshop	141,242.75	87,020.22	0.62	54,222.53
1A.4	Incremental Operating Costs	198,902.00	144,987.41	0.73	53,914.60
1A.5	ACF Operating Costs	203,839.00	197,235.65	0.97	6,603.35
	<b>Total</b>	<b>885,150.25</b>	<b>544,063.09</b>	<b>0.61</b>	<b>341,087.17</b>

#### + AusAID Grant

Not applicable to ACF

#### + RGC Contributed

Not applicable to ACF

#### + Other Donor

Expenditure By Categories		Budget	Actual	Depletion Rate	Balance
1A.1	Goods		-	-	-
1A.2	Consulting Services	600.00	671.12	1.12	(71.12)
1A.3	Training and Workshop	630.00	862.26	-	(232.26)
1A.4	Incremental Operating Costs	20,378.52	8,524.84	0.42	11,853.68
1A.5	ACF Operating Costs	2,550.00	1,887.02	0.74	662.98
	<b>Total</b>	<b>24,158.52</b>	<b>11,945.24</b>	<b>0.49</b>	<b>12,213.28</b>

### 6.2 Annual Disbursement

Expenditure By Categories		Budget	Actual	Depletion Rate	Balance
1A.1	Goods	77,385.00	56,201.48	0.73	21,183.52
1A.2	Consulting Services	264,381.50	59,289.45	0.22	205,092.05
1A.3	Training and Workshop	141,872.75	87,882.48	0.62	53,990.27
1A.4	Incremental Operating Costs	219,280.52	153,512.25	0.70	65,768.28
1A.5	ACF Operating Costs	206,389.00	199,122.67	0.96	7,266.33
	<b>Total</b>	<b>909,308.77</b>	<b>556,008.33</b>	<b>0.61</b>	<b>353,300.45</b>

Under goods category, ACF has completed procurement of office equipment, sever equipment and sever software. In respect of audio visual equipment package, the procurement was not successful: the first bidding did not proceed due to insufficient bidders and the second bidding could not proceed because the Procurement Review Committee determined that the bidders had

not completed the procurement requirements. As a result, the Procurement Review Committee has postponed the procurement of audio visual equipment package to early 2011.

The consulting services experienced a delay. The procurement process for the study to quantify the AC value has been pushed to early 2011. The procurement on sustainability strategy and fund raising consultant will be procured around the end of February and early March 2011 instead. The procurement of media and communication consultant will be conducted when ACF procures the production of soap opera.

For the legal audit expert, the ACF and the World Bank has agreed that the ACF will deliver the results of the audit of Arbitration Council arbitral awards through an arrangement separate from IDA funding.

In respect of production of broadcast media and tools, one package (public service announcement and training video) is being produced by the Women Media Center. ACF plans to procure the other package (public service announcement, soap operas) around the end of February 2011.

On the training and workshops category, ACF underspent according to the budget plan for the period, due to underspending of each training specifically because ACF utilities its resource were used so that it could cover some of expense for the venue etc.

Under the Incremental Operating Cost, ACF spent 70% compared to the budget allocation. This expenditure was incurred in 3<sup>rd</sup> quarter and 4<sup>th</sup> quarter of 2010.

Last category, ACF operating cost, ACF has spent 96% compared to the budget allocation of the year 2010.

### ***6.3 Annual Audit Finding***

ACF has made engagement with KPMG to audit its financial statement 2009. Overall, the auditor's report did not raise any issues of significance. However, the auditor found that during July 2009, ACF has created a new chart of account to align with the new budget. The data from the previous chart of account has been migrated into a new chart of account, however the migration was not performed properly, which the opening balance was not reconcile with the previous chart of account. ACF has investigated and took action to re-migrate to adjust the unbalance account by using one uniform chart of accounts for the whole year 2009.

## **7. Annual Procurement Summary**

### **Procurement of Goods:**

**1). Supply and delivery of office equipment (lot 1)** – Invitation for Bids (IFB) dated 12 July 2010 and Bid opening dated 27 July 2010 and awarded the contract on 21 September 2010 in the contract amount of USD 12,609.00. **Status: Completed.** Lot 2 (audio visual equipment) was not successful due to the insufficient bidder for the first bidding and insufficient bidding document

for the second bidding, the package for lot 2 was cancelled in 2010 and it will be re-procured in 2011.

**2). Supply and delivery of Server equipment** - IFB was held on 20 October 2010; the date for Bid opening was held on 04 November 2010; and contract awarded on 14 December 2010 with the contract amount of USD 11,300.00 (AnAnA Computer) + USD 5,722.00 (Te Aik Hong Office Machine Supplies Co. Ltd), in total USD 17,022.00. **Status: Completed.**

**3). Purchase of Office Vehicle:** This package was under the procurement's responsibility of PCO. The unit cost was USD 25,164.28 and ACF received the vehicle brand (Ford Everest XLT 2.STD 4X4 Man LHD UF7FLAA, white colour with engine no WLAT 1133194) on August 15, 2010 at PCO office. **Status: completed**

#### **Procurement of Consultant Services:**

**1). Baseline Study:** Against the procurement plan of 2009, ACF planned to procure this consultant service in 01 June 2009, for completion in 30 September 2009. The service is valued at US\$20,000.00, and method of procurement is CQS. However, due to the delay in DFGG Project effectiveness, the procurement started in late June 2009. In 09 December 2009, ACF signed a contract with Economic Institute of Cambodia (EIC), EIC have been completed and sent the final report on 06<sup>th</sup> October 2010. **Status: Completed**

**2). Study on Demand for AC Services:** The service is valued at US\$10,000.00, and method of procurement is CQS. Per annual work plan 2009, ACF planned to procure this service from 01 August 2009 31 December 2009; however, because of the delay in procurement of the Technical Assistant, the procurement process started in mid-September 2009; Economic Institute of Cambodia (EIC) was selected and ACF awarded the contract on 17 February 2010 with a deadline on submit the final report on 30 April 2010. Due to complexity of the assignment ACF amended the contract and continuing through 23 July 2010. EIC submitted the final report on 21 September 2010 and the revised final report on 06 October 2010, the report has been reviewed for the Objective number 3 of the study EIC has been dropped, so ACF deducted 25% of the total contract amount of \$2,271.25 and EIC have been accepted. **Status: Completed**

**3). Financial Audit:** According to the procurement plan 2010, ACF is undertaking external audit as per regular audit requirement for financial auditing FY2009. The service is valued at US\$4,000.00 and method of procurement is LCS. ACF short-listed three out of three firms that responded to a Call of Express of Interest (EOI) the process reviewed the Bank's NOL on 20 May 2010. All three short-listed firms were invited on 21 May 2010 to submit proposals by 22 June 2010. ACF was awarded the contract to KPMG on 11 August 2010. Draft audit report was delayed due to the unreconciled balance sheet figure as not proper data migration from existing data to new data to fix with DFGG financial report format. KPMG submitted the final report on 02<sup>nd</sup> November 2010 and revised final report on 07 December 2010. **Status: Completed**

**4). Production of Broadcast Media Tools:** Against the procurement plan of 2010, ACF planned to procure this consultant service in April 2010; for completion in December 2010. The service is valued at US\$45,000.00 and method of procurement is CQS. ACF short-listed one out of four

NGOs that responded to a Call of Expressions of Interest (EOI), Women's Media Centre of Cambodia (WMC) was invited on 27 July 2010 to submit proposal by 26 August 2010. WMC's financial proposal was higher than the estimated price of the assignment; WMC had revised and re-submit its financial proposal on 30 November 2010. The combined technical and financial proposal had passed and signed the contract on 20 December 2010 of the total amount of US\$19,288.00 for 1). Two of public service, and 2). Training Video. The duration of assignment should be a period of four and half month.

**5). Study to Quantify the Value of the Arbitration Council Services:** This study has been undertaken by CKP/IPA, by the deadline; one NGO and one firm submitted their EoI, the evaluation of EoI was completed and RFP was issued the first rank consultant on 30 August 2010 and by deadline 27 September 2010, the proposal has been received and found to be substantially responsive, but the financial proposal of CDRI for the total sum of US\$52,362.00 exclusive of local taxes, is exceeding by over 30% of the total estimated available budget of US\$40,000.00.

**6). Legal Expert Audit (Int'l):** Against the procurement plan of 2010, ACF planned to recruit International Legal Expert Audit in September 2010 with the value of US\$5,000 and method of procurement is SSS. The first formal audit on the quality of Arbitral Awards was conducted in 2005 by Commissioner Gay; the original plan noted the possibility for such downstream assignments during the life of the project. ACF is of the view that Commissioner Gay is well qualified for the role given his broad knowledge of the Cambodian system and his in-depth understanding of the ACF. Mr. Sok Lor and Commissioner Gay discussed over e-mail and talked over the phone on 16 December 2010 and on 20 December 2010 and reached agreement on term of the assignment, ACF was preparing the minutes of discussion/negotiation and draft contract for the assignment for Gay to review and sign.

**7). Consultant for Enhancing the Enabling Environment for Implementation of Binding Arbitration by the Arbitration Council:** ACF had sent a request for Bank approval on 18 November 2010 for the selection of the International Labour Organisation (ILO) to be the consultant for Enhancing the Enabling Environment for Implementation of Memorandum of Understanding on Improving Industrial Relations in the Garment Industry (hereinafter called the MoU) signed on 28 September 2010. ACF submits this request under Single Source Selection method of procurement because the ILO has experience of exceptional worth for this assignment. The estimate budget is approximately US\$200,000.00. The activities will be undertaken for a period of 11 months. ACF received bank agreement on SSS justification on 30 November 2010. ACF sent the draft RFP and draft contract for bank review on 22 December 2010.

**Recruitment of Technical Consultant for ACF:** Six individual consultants were recruited.

**1). Communication Officer (CO):** ACF signed the contract with successful CO on 05 January 2010; CO commenced work in 05 January 2010.

**2). Housekeeper:** ACF awarded the contract for the position of housekeeper in early-February 2010; the housekeeper commenced work in 02 February 2010.

**3). Legal Education and Translation Officer (LETO):** ACF signed the contract with successful LETO on early-July 2010; LETO commenced work in 12 July 2010.

**4). Monitoring & Evaluation Coordinator (MEC):** ACF successfully recruited and signed the contract with MEC in late October 2010; MEC commenced work from 15 November 2010.

**5). Senior Procurement Officer (SPO):** ACF successfully recruited and signed the contract with SPO in early December 2010; SPO commenced work from 21 December 2010.

**6). Finance & Administration Officer (FAO):** ACF started recruit FAO in mid-December 2010 and expected to complete the process by mid of February 2011.

**Recruitment for international & local Internship for ACF:** Three local interns and one International intern were recruited.

**1). Translation Intern:** ACF offered the position of Translation Intern in December 2009; the Translation Intern commenced work for period from 04 January 2010 to 03 April 2010.

**2). Local Legal Intern:** ACF awarded the contract for the position of Legal Intern on 09 April 2010; the legal intern commenced work for period from 20 April to 19 July 2010. Due to the deadlock of translation and case support, ACF had extended the legal internship for another period from 19 July to 18 October 2010.

**3). International Legal Intern:** ACF offered the position of International Legal Intern in beginning of September 2010; the International Legal Intern commenced work for period from 15 September 2010 to 06 October 2010.

**4). Translation Intern:** ACF awarded the contract for the position of Translation Intern on 31 May 2010; the translation intern commenced work for period from 01 June to 31 August 2010. Due to the deadlock of translation, ACF had extended the translation internship for another period from 06 September to 05 December 2010. Due to important obligations to fulfil, the translation intern requested to terminate his job on 13 September 2010.

## **8. Staffing Plan**

In 2010, ACF comprised 22 staff positions. Some positions were already recruited since 2009. However, 5 staff were recruited are: (i) Communication Officer, (ii) Housekeeper; (iii) Legal Education and Translation Officer; (iv) Monitoring & Evaluation Coordinator; and (v) Senior Procurement Officer.

In 2011, ACF plans to recruit staff for positions of: (i) Deputy Executive Director (currently open position).

The details of staff positions in 2010 (for ACF and the Secretariat of the Arbitration Council) are:

	<b>Unit</b>	<b>Position</b>	<b>2010</b>
ACF	Executive Management	Executive Director	1
		Deputy Executive Director	0
	Legal Services Department (LSD)	Director of Legal Services (formerly known as Chief Legal Officer)	1
		Senior Legal Officers	2
		Legal Officers	3
		International Legal Advisors	1
		Translation & Liaison Officer	1
		Training & Communications Department (TCD)	Manager of Training & Comm.
	Training & Communications Department (TCD)	Communications Officer	1
		Training Coordination Officer (formerly known as Training Assistant)	1
		Monitoring & Evaluation	M&E Coordinator
	Finance & Administration Department (FAD)	Manager of Finance & Admin.	1
		Finance & Admin. Officer	1
		Senior Procurement Officer	1
		Driver/ Messenger	1
		Housekeepers	2
		Receptionist	1
	<b>TOTAL</b>	<b>20</b>	
SAC	Management	Head of the Secretariat	1
	Secretariat	Officers	2
		<b>TOTAL</b>	<b>3</b>

### **8.1 MBPI/PMG**

Not applicable to ACF

### **9. Safeguards Update**

Not applicable to ACF

## 10. Updated Risk Management Matrix

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
Strain on the collaborative and interdependent relationship between the AC/F and the Ministry.	Loss of harmonious and collaborative relationship necessary to support the Arbitration Council in its DFGG activities.	Consequence: 5 Likelihood: 4 Risk Score: 20 H	<ol style="list-style-type: none"> <li>1. Maintain existing institutional framework wherein ACF provides managerial, financial, and technical support to Arbitration Council, and SAC provides clerical and registry functions for the Council.</li> <li>2. Hold regular meetings and other activities between the ACF staff and SAC staff pursuant to the <i>Agreement Between Department of Labour Disputes and Arbitration Council Foundation</i>, including monitoring and revision (as needed) of the working relationship between ACF and SAC and therefore, of the Agreement as well.</li> <li>3. Transform the DFGG Project's Technical Working Group (currently composed of arbitrators, representatives from the Ministry, including SAC, and representatives from the ACF) into a DFGG Project Collaboration Committee to facilitate information sharing, consult with stakeholders and coordinate joint activities.</li> <li>4. Hold regular meetings between arbitrators, the ACF staff, and SAC staff.</li> <li>5. Hold regular meetings between arbitrators and Ministry conciliators, in Phnom Penh and elsewhere, which will be designed to share expertise in labour dispute resolution and develop capacity and professional</li> </ol>	MOLVT, AC/F, SAC, and PCC	<ul style="list-style-type: none"> <li>• ACF and SAC provide support to AC</li> <li>• ACF and SAC meet regularly</li> <li>• PCC is well-functioning (representatives of MoLVT are members of PCC).</li> <li>• ACF organised Project Collaboration Committee (PCC) on 08 April 2010</li> <li>• Regular meetings held among arbitrators, ACF and SAC.</li> <li>• Framework agreed by MoLVT and ACF to, among other things, conduct joint training activities by and for arbitrators, ACF and Ministry staff</li> <li>• ACF organises capacity building activities for</li> </ul>	Consequence: 5 Likelihood: 3 Risk Score: 15 H	<ul style="list-style-type: none"> <li>• Meetings to be arranged between arbitrators and Ministry conciliators</li> <li>• PCC to meet regularly (about four times a year)</li> <li>• ACF to organise trainings for labour officers of MoLVT, including inspectors and conciliators from the key provinces – May, June, and July 2011</li> </ul>

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
			<p>relationships. It is expected that such meetings will also promote shared understanding and an appreciation of the work of each institution's labour dispute resolution professionals.</p> <p>6. Continue joint training and outreach activities both by and for arbitrators, the ACF, and the Ministry.</p> <p>7. Hold regular domestic and international training sessions organised by ACF that are tailored for the benefit of arbitrators and Ministry officials.</p>		<p>arbitrators and SAC/Ministry officials</p> <ul style="list-style-type: none"> <li>• ACF conducted joint training on conciliation skills for arbitrators and MoLVT conciliators from around Cambodia on 16 March 2010</li> <li>• ACF invited MoLVT trainer co-provide the training on labour dispute resolution process to law students at Royal University of Law and Economics on 18 March 2010</li> <li>• Between 22 - 29 May 2010, joint delegation of MoLVT and AC/F visited to the USA, meeting with key representatives of American Arbitration Association, Massachusetts Department of</li> </ul>		

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
					Labour, Federal Mediation and Conciliation Services, and National Academy of Arbitrators. <ul style="list-style-type: none"> <li>• PCC met on 24 August 2010</li> <li>• ACF organised a visit by Commissioner Michael Gay of Fair Work Australia with MoLVT on 27 September 2010</li> <li>• ACF organised trainings for conciliators on 30 September 2010</li> <li>• At the invitation of MoLVT, ACF observed at the tripartite consultation meetings on draft trade unions law, organised by MoLVT, on 29 and 30 September 2010.</li> <li>• ACF &amp; MoLVT worked on organising 5<sup>th</sup> National Industrial</li> </ul>		

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
					Relations Conference – 2010 <ul style="list-style-type: none"> <li>• ACF management and Commissioner Michael Gay paid courtesy visit to MoLVT on 28 September 2010.</li> </ul>		
Illegal strikes, in which workers contravene the procedures laid out in the law and have gone on strike during the arbitral process .	The credibility and effectiveness of the Arbitration Council are undermined.	Consequence: 4 Likelihood: 4 Risk Score: 16 H	<ol style="list-style-type: none"> <li>1. Cooperate with social partners in promotion of CBAs with non-strike clause and binding arbitration in exchange for the unions' agreement to give up their right to strike for a certain period of time, or at least to eliminate the practice of illegal strikes.</li> <li>2. Ministry and other social partners to engage employers and unions in promotion of workplace cooperation schemes and collective bargaining agreements.</li> <li>3. Ministry and ACF to expand trainings to stakeholders (including unions) regarding the labour dispute resolution process.</li> <li>4. Ministry and ACF work together to increase the visibility of dispute resolution mechanisms so workers know the alternatives to a strike.</li> <li>5. The Arbitration Council will continue to issue Return-to-Work orders when the case forwarded to AC is confirmed with strike.</li> </ol>	MOLVT, especially the labour inspectors and conciliators, AC/F, and National Committee for Strikes Prevention, Non-State Actors	<ul style="list-style-type: none"> <li>• ACF is cooperating with social partners to promote CBA.</li> <li>• In February 2010, the Economics Today – a well read local economics and business magazine – published its article about the AC as an alternative to strikes.</li> <li>• ACF met with high-level ILO delegation on 28 March 2010 to discuss the needs for CBA and binding arbitration to minimize illegal strike and to ensure</li> </ul>	Consequence: 4 Likelihood: 4 Risk Score: 16 H	<ul style="list-style-type: none"> <li>• Stakeholder training and awareness raising activities to be expanded, including broadcasting of public service announcements on radio and TV about labour dispute resolution process and AC arbitration process as well as other media tools in mid 2011</li> <li>• DFGG to fund Non-State Actors to build union capacity – grant by TAF to IHQ</li> </ul>

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
			<p>6. Preliminary proposals regarding direct access of parties to the Arbitration Council have been raised by stakeholders as a means to reduce the length of illegal strikes.</p> <p>7. DFGG funds to be provided under the Non-State Actor window in order to build capacity of unions to conduct industrial relations in the framework of the law (with limited recourse to strikes). Support also to be provided to ensure that as unions move into new sectors or areas, they organise workers in an appropriate and responsible fashion.</p>		<p>more peaceful industrial relations in Cambodia</p> <ul style="list-style-type: none"> <li>• In March 2010, ACF conducted a bipartite roundtable discussion for employers and unions on CBA and binding arbitration as tools for industrial peace</li> <li>• ACF/SAC carries out stakeholder training activities</li> <li>• ACF has engaged in discussions with TAF and potential partners regarding DFGG Non-State Actor opportunities</li> <li>• Arbitrator Panel issues Return-to-Work orders for cases with workers confirmed on strike</li> <li>• On 28 September 2010, garment industry wide agreement signed on collective bargaining and, binding arbitration,</li> </ul>		

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
					<p>and expedited process for labour disputes to reach the Arbitration Council, in an attempt to minimise illegal strikes</p> <ul style="list-style-type: none"> <li>• On 1 October, ACF organised National Industrial Relations Conference to promote collective bargaining and binding arbitration in order to minimise illegal strikes and promote industrial stability in Cambodia</li> <li>• In December 2010, five information sessions were organised for worker and employer representatives regarding adjustments to AC procedures following garment industry MoU on</li> </ul>		

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
					binding arbitration by AC.		

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
Improper influence exerted on the AC, especially in the selection, appointment, removal of arbitrators or in the decision-making process of arbitration panels on specific labour dispute cases.	Loss of reputation – independence, integrity and impartiality.	Consequence: 5 Likelihood: 3 Risk Score: 15 H	<ol style="list-style-type: none"> <li>1. Using the process of the DFGG Project preparation to engage arbitrators, the ACF, and the Ministry, as well as unions and employer associations to set further rules to safeguard the independence and impartiality of the Council.</li> <li>2. ILO's to continue its facilitating role in selection of arbitrators.</li> <li>3. Development of procedures to ensure that arbitrators are not influenced by stakeholders or vested interests, including finalisation of the statement of ethical conduct for arbitrators, tentatively titled <i>Professional Guidelines for Arbitrators</i>.</li> <li>4. Arbitral awards and the legal reasoning behind them to be continued being published and widely disseminated.</li> <li>5. Measures to institutionalise and expand AC's partnership with other industrial relations institutions and stakeholders as listed in Section 9 on <i>Participation and Partnerships Plan</i> to ensure countervailing forces and interests prevent improper influence by particular interests.</li> <li>6. Measures to raise awareness and visibility of the Arbitration Council as listed in Section 12 on <i>Communication Strategy</i>.</li> </ol>	AC/F, SAC	<ul style="list-style-type: none"> <li>• DFGG TWG and TAG helps to enhance stakeholder engagement</li> <li>• ACF plays role in discussing draft MOU with MoLVT regarding process for arbitration nomination</li> <li>• Compilation of arbitral awards are published twice a year</li> <li>• All arbitral award (AA) were already uploaded on the AC website</li> <li>• Code of Conduct for arbitrators was already established and displayed at the Arbitration Council premise and website</li> <li>• Partnerships were already identified; some with MoU (MONASRI, RNK), whereas TAF and OWSO is on process</li> </ul>	Consequence: 5 Likelihood: 3 Risk Score: 15 H	<ul style="list-style-type: none"> <li>• Partnerships to be expanded and institutionalised – on-going</li> <li>• Measures listed to be undertaken in order to raise awareness and visibility</li> <li>• Continue working with the ILO to formalise a credible and transparent process for appointing and removing arbitrators from the Arbitration Council – on-going consultation with the ILO.</li> </ul>

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
Termination of Salary Supplement Schemes (including MBPI/PMG schemes) by the Royal Government of Cambodia applicable to civil servants from 2010	Funding dedicated to support AC under DFGG project frozen or terminated due to lack of implementation of DFGG activities by IAs other than AC.	Consequence: 3 Likelihood: 5 already occurred Risk Score: 15 H	<ol style="list-style-type: none"> <li>1. RGC to investigate and implement solutions in response to pre-empt the impact of the termination of salary supplement schemes on the implementation of DFGG project</li> <li>2. ACF works closely with RGC and WB and negotiate to insulate DFGG funds dedicated to AC, if any serious remedial action is to occur on overall DFGG project.</li> <li>3. ACF to raise funds from new sources in order to mitigate its reliance on DFGG funds.</li> </ol>	RGC WB AC/F and ACF Board of Directors	<ul style="list-style-type: none"> <li>• ACF has conveyed its concern to the PCO and WB re the potential impact of the termination of salary supplement schemes on the sustainability of Arbitration Council.</li> <li>• ACF has started its fund-raising activities by checking with various donor agencies.</li> <li>• Government has initiated POC schemes</li> </ul>	Consequence: 3 Likelihood: 5 already occurred Risk Score: 15 H	<ul style="list-style-type: none"> <li>• Risk eliminated. MBPI/PMG schemes have been replaced by POC scheme for eligible Government staff.</li> </ul>
Non-implementation of awards	Credibility and sustainability of the Arbitration Council are undermined.	Consequence: 3 Likelihood: 3 Risk Score: 9 M	<ol style="list-style-type: none"> <li>1. AC to cooperate with social partners in promotion of CBAs with non-strike clause and binding arbitration.</li> <li>2. Conciliators to communicate advantages of binding arbitration (which provides a final resolution and closure to a dispute) to parties at the conciliation stage before the case is referred to the Arbitration Council.</li> <li>3. Arbitrators to communicate with parties to explain the advantages of binding awards.</li> <li>4. Educate parties in the</li> </ol>	AC/F MOLVT, social partners, Non-State Actors	<ul style="list-style-type: none"> <li>• ACF is cooperating with social partners to promote CBA.</li> <li>• Encouraging parties to select binding-award has been implemented during the hearing by arbitrators</li> <li>• Stakeholder training activities carried out to build</li> </ul>	Consequence: 3 Likelihood: 3 Risk Score: 9 M	<ul style="list-style-type: none"> <li>• Stakeholder training activities to be expanded; and conciliators to be trained on how to communicate the advantages of binding arbitration – May, June, July 2011</li> <li>• Jointly organise</li> </ul>

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
			<p>understanding of arbitral awards. The Ministry, the AC and ACF may conduct co-trainings for potential parties and parties in dispute on binding awards, legal strikes, and how to read and understand the arbitral awards.</p> <p>5. MOLVT and the AC to engage with other social partners and stakeholders to help train stakeholders in labour dispute resolution, and other appropriate topics.</p> <p>6. The Arbitration Council to continue to publish the arbitral awards on its website, which enables third parties such as MOLVT, ILO's <i>Better Factories Cambodia</i> to monitor compliance with the awards. Efforts by Non-State Actors should be supported to "name and shame" enterprises / unions which do not comply with arbitral awards.</p>		<p>capacity in the labour dispute resolution process</p> <ul style="list-style-type: none"> <li>• Arbitral awards already published on the Arbitration Council website</li> <li>• On 28 September 2010, industry-wide agreement reached within the garment industry on binding arbitration on rights disputes before the Arbitration Council</li> <li>• In December 2010, five information sessions were organised for worker and employer representatives regarding adjustments to AC procedures following garment industry MoU on binding</li> </ul>		<p>seminar with the ILO on the MoU and binding arbitration – 1<sup>st</sup> quarter 2011.</p> <ul style="list-style-type: none"> <li>• Trainings for employers and unions and workers, as stated in AWP 2011, to be revised in mid 2011.</li> <li>• Finalise contract to the ILO to enhance the enabling environment for the implementation of MoU, including binding awards and their implementation . – June 2011</li> <li>• Continue publishing awards on AC website – on-going basis</li> </ul>

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
					arbitration by AC.		
Disproportionate reliance on Arbitration Council to resolve collective disputes.	Bottlenecks in resolving disputes. Backlog results.	Consequence: 3 Likelihood: 3 Risk Score: 9 M	<ol style="list-style-type: none"> <li>1. MOLVT to build its capacity to improve labour inspection and conciliation functions, including development of guidelines and procedures manuals for conciliation.</li> <li>2. Employers and unions to build their capacity in workplace cooperation, with a view to improve their ability to prevent labour disputes.</li> <li>3. The ACF will cooperate with social partners in the provision of capacity building for employers and unions in collective bargaining with a view to concluding more CBAs that provide for grievance procedures at enterprise level</li> </ol>	MOLVT, Employers' groups, unions, social partners of the AC/F	<ul style="list-style-type: none"> <li>• ACF cooperating with social partners and carrying out training programmes for employers and unions on CBAs, the Arbitration Council and the process for resolving labour disputes</li> </ul>	Consequence: 3 Likelihood: 2 Risk Score: 6 M	<ul style="list-style-type: none"> <li>• MOLVT to continue to build its capacity in inspection and conciliation – May, June, July 2011</li> <li>• Joint-training will continue to be organised by ACF and other bodies in delivering the trainings</li> <li>• Joint-trainings with GMAC, CAMFEBA, ACILS, IHQ and other partners on labour dispute prevention and resolution – as stated in AWP 2011, which is to be revised in mid 2011.</li> </ul>

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
Capacity of Ministry at national and provincial levels, in forwarding cases to the Arbitration Council	Access of stakeholders outside of Phnom Penh to Arbitration Council's services is limited or undermined.	Consequence: 3 Likelihood: 3 Risk Score: 9 M	<ol style="list-style-type: none"> <li>1. Strengthen the capacity of conciliators in Phnom Penh and Provincial Labour Offices, including joint training and outreach provided by Ministry, Arbitration Council and ACF to conciliators on labour dispute resolution, arbitration process and conciliation.</li> <li>2. Ministry and ACF will continue to cooperate to build close relations and good understanding of their respective roles, the role of the Arbitration Council and their mutual obligations to parties, through joint events, workshops, etc.</li> <li>3. Ministry conciliators to hand out information to parties regarding the arbitration process and arbitrators (including location of the Arbitration Council, what a hearing is, how to select arbitrators, where the arbitrator biography can be found, etc.)</li> </ol>	MOLVT, especially PLOs, and conciliators, AC/F	<ul style="list-style-type: none"> <li>• MOLVT and AC/F organise joint events to strengthen relations and understanding of respective roles</li> <li>• MOLVT and ACF develop information materials for parties; and MOLVT distributing information materials to parties</li> <li>• ACF and MOLVT have organised joint trainings for conciliators</li> <li>• ACF organised a training for conciliators in March and September 2010</li> </ul>	Consequence: 3 Likelihood: 3 Risk Score: 9 M	<ul style="list-style-type: none"> <li>• Joint trainings and outreach will continue to be carried out by ACF and MoLVT for conciliators on labour dispute resolution, arbitration and conciliation in May 2011</li> </ul>
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Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
Creation of a Labour Court	A nascent Labour Court may have inadequate understanding and appreciation for arbitration and ADR frameworks. Rulings might undermine the AC awards and the body of jurisprudence that has developed.	Consequence: 4 Likelihood: 2 Risk Score: 8 M	<ol style="list-style-type: none"> <li>1. Advocate for the incorporation of provisions similar to Articles 349 – 353 of the Code of Civil Procedure and Article 47 of the Prakas on the AC into the law and regulations governing the Labour Court to recognise the AC and the enforceability of AC's awards.</li> <li>2. Ensure that structure and proceedings of the Labour Court are in accordance with international labour standards and consistent with national labour law and regulations. In particular, using input and technical advice of the International Labour Organization when preparing regulations for the Labour Court.</li> <li>3. Train Labour Court judges in cooperation with social partners regarding the legal and jurisdictional issues at the intersection of alternative labour dispute resolution and the judicial authority.</li> </ol>	RGC (MOLVT), AC/F, social partners	<ul style="list-style-type: none"> <li>• N/A (Labour Court not yet implemented even though law and regulations for Labour Court is on process of drafting)</li> <li>• Training to court clerk students and student judges is organised every year</li> </ul>	Consequence: 4 Likelihood: 2 Risk Score: 8 M	<ul style="list-style-type: none"> <li>• Activities to be carried out when labour court regulation start to be drafted</li> </ul>

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
Non-enforcement of final and binding arbitral awards by Courts	A nascent court may not have adequate understanding and appreciation for arbitration and ADR framework, especially the statutory role of the court relative to that of arbitration.	Consequence: 4 Likelihood: 3 Risk: 12 M	<ol style="list-style-type: none"> <li>1. Conduct trainings/seminar for judges and students judges on the role of court and arbitration, especially provisions similar to Articles 349 – 353 of the Code of Civil Procedure and Article 47 of the Prakash on the AC into the law and regulations governing the Labour Court to recognise the AC and the enforceability of AC's awards.</li> <li>2. Train employers and employees on the effects and benefits of binding arbitration and enforcement of arbitral awards</li> <li>3. Inform members of the ACF Stakeholders Advisory Group on the effect of binding arbitration and relevant enforcement provisions for binding arbitral awards</li> </ol>	ACF, ACF's partners	<ul style="list-style-type: none"> <li>• In December 2010, five information sessions were organised for worker and employer representatives regarding adjustments to AC procedures following garment industry MoU on binding arbitration by AC.</li> </ul>	Consequence: 4 Likelihood: 3 Risk: 12 M	<ul style="list-style-type: none"> <li>• Conduct training/seminar for judges on enforcement of binding awards in January 2011</li> <li>• Organise SAG meeting in March 2011, among other things, to inform the effect of binding arbitration.</li> </ul>

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
<p>Lack of understanding among concerned employers and employees/unions on the substance and impacts of binding arbitration, arising from the Memorandum on Improving Industrial Relations in the Garment Industry, reached between relevant parties on 30 September 2010</p>	<p>Credibility and sustainability of AC undermined.</p>	<p>Consequence: 4 Likelihood: 4 Risk: 16 H</p>	<ol style="list-style-type: none"> <li>1. Train concerned stakeholders about the substance and effect of binding arbitration in the MoU.</li> <li>2. Raise awareness of the effect and substance of the binding arbitration MoU through media campaign, information materials, and other stakeholders engagement activities.</li> <li>3. Share with ACF Stakeholders Advisory Group the effect and substance of the binding arbitration MoU for their information and further dissemination.</li> <li>4. Reinforce the impact and substance of the binding arbitration MoU at Meets &amp; Greets events with employers and unions.</li> <li>5. Collaborate with MOLVT conciliators in raising awareness of effect and substance of binding arbitration MOU among disputing parties in conciliation process</li> </ol>	<p>ACF, ACF's partners/ sub-contractors</p>	<ul style="list-style-type: none"> <li>• In December 2010, five information sessions were organised for worker and employer representatives regarding adjustments to AC procedures following garment industry MoU on binding arbitration by AC.</li> </ul>	<p>Consequence: 4 Likelihood: 4 Risk: 16 H</p>	<ul style="list-style-type: none"> <li>• Raise awareness about the MoU and the implementation of binding awards among the members of the SAG at its meetings scheduled for March 2011 and September 2011.</li> <li>• Produce and circulate to concerned stakeholders the Arbitration Council newsletters on a monthly basis to capture relevant information about binding arbitration cases under the MoU. Contract the ILO to facilitate the environment for the implementation of the MoU. This includes organising meetings of relevant stakeholders, producing awareness raising and educational tools, media tools, etc. ACF plans to finalise the contract</li> <li>• Train MoLVT labour officials on</li> </ul>

Risk Description	Risk Impact	Risk Score without Mitigation	Mitigation Strategy	Action Agents	Progress Status (Give details of tasks undertaken)	Risk Score with Mitigation	Remaining Action (Give timelines and resource requirements where possible)
Improper expectations of the AC's dispute resolution and related services	Credibility and sustainability of AC undermined	Consequence: 2 Likelihood: 4 Risk: 8 M	<ol style="list-style-type: none"> <li>1. Continue to disclose the Complaints and Remedies Mechanism applicable to ACF</li> <li>2. Update and execute the Complaints and Remedies Mechanism, to consider and respond to feedbacks about the Arbitration Council and its services</li> <li>3. Create proper channelling of complaints through setting up a suggestion box and e-mail account</li> <li>4. Clarify expectations at Meets &amp; Greets sessions with stakeholders</li> </ol>	ACF	CHM in place. The suggestion box available at the gate and monitored on a weekly basis.	Consequence: 2 Likelihood: 4 Risk: 8M	<ul style="list-style-type: none"> <li>• At Meets &amp; Greets sessions as scheduled in AWP 2011 provide clarification on what the AC can do or cannot do within its statutory mandate.</li> <li>• Update the disclosed Complaint-Handling Mechanism, as appropriate.</li> <li>•</li> </ul>

## 11. GGF Monitoring and Update

	Issues	Action to Mitigate Risk	Responsibility	Target/ Monitoring	Implementation Status as of 31 December 2010	Action Plan	Revised Target Date	A Resc Req
	1	2	3	4	5	6	7	
9	<b>Element 9: ACF Specific Issues</b>							
9a	<u>Procurement</u> Responsibilities of ACF	Unless otherwise agreed between the RGC and the IDA, ACF will be responsible for the complete procurement cycle for: (1) vehicles under component 4 of its Project Proposal to be procured from UNOPS; (2) consultants for components 3 and 4 of its Project Proposal recruited through single source selection (SSS) procedures; (3) any direct contracting that has received prior approval of the IDA; and (4) such other procurement consistent with agreements and policies of RGC or IDA, including as specified in Letter of the Ministry of Economy and Finance, No. 6721 SHV.VS, dated 15 December 2008, re “Measures to be taken in the future in relation to the use of independent procurement mechanism under the World Bank’s grant project.” In such cases, procurement shall be	ACF will perform its procurement responsibility in according to ACF’s approved guidelines and procedures, as well as other procedures and policy of RGC or IDA.	IDA to monitor through prior or post reviews.	The procurement of vehicle has been completed—PCO.  ACF has coordinated with PCO for procurement by PCO/IPA.	The procurement of consultants for 2010 (i.e., broadcast media tool, sustainability, evaluation studies...) are in process and/or will be implemented consistent with procurement procedure of RGC or IDA		

	<p>undertaken in accordance with the Bank's Guidelines and the procedures specified with SOP/PM, as mandated by MEF Sub-Decree No. 14 dated February 26, 2007.</p> <p>The recruitment and hiring of short-term emergency labour arbitration experts and independent external financial auditors selected by ACF Board of Directors are not subject to IPA or other procurement guidelines or procedures.</p> <p>The recruitment and hiring of ACF regular staff (including legal, administrative, finance and procurement) are not subject to IPA, but are subject to SOP/PM as agreed.</p> <p>For expenditures (including those in the approved Project budget) that are not financed with IDA funds, ACF need not undertake procurement via the IPA or other procurement guidelines or procedures.</p>					
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9b	<p><u>Procurement</u> Need to strengthen procurement capacity.</p>	<p>ACF's procurements are complied with the procurement procedure of WB and MEF specified in item 9a.</p>	<p>ACF via procedures consistent with SOP/PM.</p>	<p>The Procurement Officer with ACF resigned in June 2010. ACF is recruiting his replacement. - Finance and Administration Officer will be held Sr. Procurement Officer</p>	<p>Implementation of procurement follows World Bank and the RGC (SOP/PM) guideline.</p>	<ul style="list-style-type: none"> <li>• Recruit replacement for the post of Procurement Officer</li> <li>• Recruitment of Finance and Administration Officer</li> </ul>	<p>- To start in 20 December 2010 - FAO expected to commence work in June 2011 -</p>
9c	<p><u>Financial Management</u> Responsibilities of ACF</p>	<p>ACF will be responsible for its FM function, accounting and management of fund flows, designating a Project Accountant and one accounting officer to support project accounting work.</p> <p>ACF is not required to install the accounting software package referenced in item 2c; ACF will continue to utilize its existing accounting system and software package.</p> <p>ACF will continue its own practice of an annual external audit conducted by independent auditors selected by the ACF Board of Directors, as mandated by the ACF Statute and agreed with RGC and IDA.</p>	<p>ACF with PCO oversight.</p>	<p>Finance and Admin. Department is in charge of FM management</p>	<p>ACF has designated Manager of Finance &amp; Administration and Finance Officer responsible for FM function, accounting and management of fund flows. Executive Director is responsible for oversight.</p> <p>Financial auditor has completed its field work in auditing financial management for fiscal year 2009, the final reports to be shared with relevant agencies once available.</p>		

9d	<u>Financial Management</u> Financial independence and sustainability.	ACF will prepare an Action Plan for its progressive financial independence and sustainability.	ACF	ACF to draft strategy by DFGG Mid-term Review, Action Plan to be finalized and adopted by end of year 3 of DFGG. PCO to monitor progress. IDA to review during Mid-term Review and end year 3.	ACF will draft the long-term sustainability after the completion of: (i) Study to Quantify the Values of AC Service; (ii) Sustainability Study; and (iii) Fundraising Consultant; which are the series studies.  By now, the procurement of the first study commenced in late March 10; Independent Procurement Agency is handling the procurement and study is to commence following completion of the procurement.	To be completed within 2011, per AWP 2011, to be revised in mid-2011	
9e	<u>Financial Management</u> Clarification of items 2g and 2h	Petty cash transactions during overseas travel which cannot be carried out by check or transfer to bank accounts shall not be limited to US\$500; ACF will continue to retain evidence of any such transactions for audit and IDA supervision missions.  Subject to confirmation by MEF that ACF is not bound by Anukret 10 of April 2004 and Decision Letter 2000 of April 2007, ACF may pay DSA to its project staff in accordance with its established rates and procedures.	ACF	ACF will follow MEF's DSA rate	ACF has followed MEF's DSA rate. Adjustment made to the rate with non-IDA funds to allow implementability of relevant ACF activities and to meet essential operational needs of ACF.		

9f	<p><u>Disclosure</u> Lack of transparency of information on AC procedures and decisions</p>	<p>In addition to disclosure requirements under item 3b, ACF will continue to disclose on its website and by dissemination of hard copies, including new formats such as CD-ROM, full information on the arbitration process and procedures and all arbitral decisions.</p>	<p>ACF will be responsible for information disclosure to stakeholders and publics via website, hard copies, and soft copies</p> <p>Full disclosure of Project information under item 3b to commence in 2009 when DFGG effective and AC website upgrading is completed.</p>	<p>Regular updating of website to continue during Project implementation. PCO to monitor and IDA to verify during supervision missions.</p>	<p>Legal database and website improvement was completed in 2009; and ACF regularly updates website.</p> <p>ACF has fully disclosed Project information under item 3b at both ACF premise and AC website</p> <p>ACF disclosed Professional Guidelines of the Arbitration Council and Complaints Handling Mechanism in ACF premises and AC website.</p> <p>ACF disseminates information on AC procedures and decisions in hardcopies to stakeholders.</p>	<ul style="list-style-type: none"> <li>Continue disclosing relevant information, based on disclosure list provided by PCO</li> </ul>	<p>On-going basis.</p>
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9g	<u>Civil Society Role</u> Low turnout of civil society representatives at relevant ACF activities and meetings.	In addition to implementing its Partnership Plans described in the PIM (item 4a), ACF will establish a tripartite Stakeholder Advisory Group (SAG) as an important platform for stakeholder consultation.	ACF in accordance with the TOR given in the approved Project Proposal.	SAG established and functional by 12 month after effectiveness	SAG was established in June 2010, its first meeting was held on 25 June 2010	<ul style="list-style-type: none"> <li>Organize the SAG meeting; ensure SAG working properly</li> </ul>	Next SAG meeting is planned for March 2011  Invite civil society organisations in labour areas like ACILS and CLEC to observe and input at SAG meetings.
9h	<u>Complaints and Remedies Mechanism</u> Complaints relating to arbitral decisions.	The Complaints and Remedies Mechanism does not apply to the labour dispute activities of the Arbitration Council; in particular, any complaint or related question regarding a labour dispute case registered with the Arbitration Council will continue to be handled by the standard procedures and guidelines of the Arbitration Council, the Secretariat of the Arbitration Council and/or ACF, including via the procedures provided in the Labour Law (1997), Prakas 99 MOSALVY, dated 21 April 2004, on the Arbitration Council, and related laws and regulations.	ACF ensures that complaints and remedies mechanism is functioning during the project life	During DFGG pre-implementation stage, PCO and IDA to agree final complaints and remedies mechanism with provision for ACF to deal with complaints on arbitral decisions.	ACF has provided provisions regarding complaints to PCO.  ACF has provided PCO necessary revisions to PIM related to, <i>inter alia</i> , Complaints and Remedies Mechanism consistent with actions to mitigate risk.  ACF posts Complaints-Handling Mechanisms on AC website and within AC premise.	<ul style="list-style-type: none"> <li>Update Complaints &amp; Remedies Mechanism to reflect the latest development as a result of the MoU on binding arbitration</li> </ul>	Complaint-handling mechanism to be updated – 1 <sup>st</sup> Quarter 2011  Complaints and Suggestion Box made available at AC premise – 1 <sup>st</sup> quarter 2011

9i	<u>Professional Guidelines</u> Need to raise awareness of Professional Guidelines for Arbitrators	See item 6a. ACF has facilitated completion and agreement on the Professional Guidelines for Arbitrators, which ACF will display publicly at the AC chambers and on the website, and furnish a copy to the PCO and IDA.	ACF will publish on its website when agreed	Complete, adopt, publish and furnish copies to IDA during DFGG pre-implementation stage. PCO to monitor adoption. IDA to verify adoption during supervision missions.	ACF coordinated completion, adoption and furnished copy to IDA as required. ACF displays publicly at AC chambers in English and Khmer. ACF has published copy on new website.	Complete		
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### Review of Good Governance Matrix

This Good Governance Matrix is to be reviewed and signed off by senior management on a regular basis. The following review system is recommended with the Good Governance Matrix:

- All risk factors pertaining to fraud and corruption require constant vigilance in instituting and implementing the preventive and control measures.
- Senior Management and project team to review the risk areas, red flags and mitigation measures regularly (every 3 months) to ensure that effective controls are in place.
- The emergence or presence of red flags should trigger a review of the situation to see if existing controls are adequate and if investigative action and additional controls are required. The matter is to be brought to the attention of senior management if evidence or suspicion of corruption is found.

**This Good Governance Matrix for the Arbitration Council has been reviewed and updated by:**

Name: \_\_\_\_\_ Designation: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Designation: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Designation: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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Name: \_\_\_\_\_ Designation: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## 12. Complaints Summary

Not applicable to ACF; ACF has submitted a complaints handling mechanism to PCO.

## 13. Communication Activities and Results

Within the DFGG Project, the AC, while expanding both geographically (to new regions) and substantively (to new sectors of the employment market), can serve as an example of the state supporting transparency, accountability and neutrality in mediating DFGG by the private sector. As a working model of good governance, the AC communications effort would increase specific knowledge, understanding and use of the service, but also communicate the service itself as a living example of what good governance means.

**Website maintenance:** The AC has maintained a bilingual (Khmer and English) website where all Arbitration Council decisions (awards and orders) are available. The Khmer version will be improved and updated in early 2011. Awards are posted within days of being issued. With internet access, these reach a limited, but potentially important, audience in Cambodia. In addition, the mere fact that these are published in such a transparent way is itself an example of “governance in action”. Further information on the Arbitration Council’s structure and procedures, as well as information on the Labour Law and related regulations, is also available.

**Improved Database:** ACF also had a new database developed for better internal communications and research. Following data input and configuration on the server, arbitrators and ACF staff will be able to use the database to help with their legal research for cases before the AC.

**Publications:** ACF published Compilation of Arbitral Awards and Orders, Vol. 11 in English; Vol. 12, 13, 14 in Khmer (500 copies each), Q&A; Annual Report 2009 (500 each in Khmer and English), folders (1500 copies), leaflets on case preparation before the Arbitration Council (1000 each in Khmer, English, Chinese), handbook on Labour Dispute Resolution, and AC (1500 each in Khmer and English), Arbitrator Biography (500 each in Khmer and English), and ACF’s quarterly bulletin (Khmer and English), using the funding from the World Bank’s DFGG Project. The Compilation was distributed to stakeholders (Garment Manufacture Association of Cambodia, Union Federations, MOLVT, etc.).

During the reporting period, AC Brochures and leaflets on Case Preparation before the AC were also developed and printed. They have been distributed to various AC stakeholders at various public events such as stakeholder training both by local and foreign experts, workshops and National Industrial Relations Conference.

**National Industrial Relations Conference (NIRC):** ACF organised the 5<sup>th</sup> National Industrial Relations Conference on 1 October 2010 at Raffle Hotel. The theme for the NIRC this year was *Collective Bargaining for Improved Industrial Relations: Collective Solutions to Current Challenges*. Conference was presided over by His Excellency Seng Sakda, Director General of General Department of Labour, Ministry of Labour and Vocational Training, and Mr. Sok Lor, ACF Executive Director. The conference was well attended with about 180

participants from various organisations such as trade unions, employer associations, private companies, ILO, embassies, NGOs, etc. The conference was reported in several media agencies such as S'thapana Newspaper, Koh Santepheap Daily, Bayond TV, and Mohanorkor Radio.

**Progress in production of multi-media tools:** The progress towards production of a 4-episode Soap opera, TV spots and a training video also commenced in December 2010. Women Media Center was selected for this task. In addition, World Bank recommended ACF to procure this service after the completion of training video and public service announcement. It is expected to be produced by early of 2011.

**AC on Air:** RNK invited ACF's Executive Director of the Arbitration Council Foundation to the Talkback programme in 28 June 2010 on Labour Dispute Resolution Process in Garment Industry. In addition, On 29 August 2010, ACF's executive Director of ACF was also invited to attend the round table discussion on DFGG project aired by TVK. However, Meatophum Radio, FM101.25 MHz, invited the ACF's Executive Director to be a guest speaker on Labour Dispute Resolution Process and Arbitration Council.

**Sharing news and updates about Industrial Relations in Cambodia:** ACF continued its press monitoring and review services and shared the weekly review of news articles from various leading newspapers in Cambodia and online news websites. The review is delivered to the AC community (Arbitrators and staff) and several stakeholders and donor agencies including GMAC, CAMFEBA, USAID and relevant ILO projects.

**Quarterly internal bulletin to keep AC community informed of the development of the institution:** The bulletins were kept in the AC's officer for visits as well as posted in its website. Furthermore, they were delivered to AC's stakeholders for understanding the progress of the AC. Hence, they will keep issuing for next coming years.

**Training to various stakeholders:** During the reporting period, DFGG funds allowed ACF to deliver training sessions to the following: (i) employee/employer (36 persons) on Negotiation Technique and garment workers (approximately 100) on labour dispute resolution and the Arbitration Council; conciliator of MoLVT (30 trainees) from 8 provinces; (ii) lawyer (61 persons) on how to effectively prepare cases for Arbitration and labour dispute resolution in Cambodia; (iii) joint-training with Community Legal Education Center (CLEC) to legal staff of American Center for International Labour Solidarity (ACILS) and advocates of union federations (15 persons); (iv) law students (approximately 426 persons) on two separate sessions "Labour Dispute Resolution" and "Labour Dispute Resolution and the Arbitration Council"; (v) paralegals (more than 20 persons) for workers at Community Legal Education Center on how to prepare cases for the arbitration hearing; (vi) administrative and human resource staff (More than 35 persons) from various garment factories on case preparation and presentation before the Arbitration Council; (vii) NGOs in Cambodia (50 participants) on the labour dispute resolution process and the Arbitration Council; (viii) legal educators (17 persons) on training of trainers of legal framework for collective bargaining in Cambodia; (ix) conciliators (30 persons) of the MoLVT on conciliation techniques with the focus on how to best conciliate disputes between unions and unions; how to negotiate an effective Collective Bargaining Agreement (CBA); and how to convince parties to comply with CBA they already

have reached; (x) Commune/Sangkat council members ( approximately 100) on conciliation techniques.

The topic of Memorandum of Understanding on Improving Industrial Relations in the Garment Sector signed on 28 September 2010 between the Garment Manufacturers Association of Cambodia (GMAC) and six major union federations and confederations was key concern which the training should be provided to the stakeholders. The MoU states binding arbitration by the Arbitration Council for rights labour disputes, which means the AC will need certain adjustments to the process in order to facilitate the implementation of the MoU that will take effect on 01 January 2011. Hence, five training sessions on this topic was conducted in December 2010 for AC partners such as American Center for International Labor Solidarity (ACILS), Community Legal Education Center (CLEC), and Worker Information Center (WIC); labour officers of the parties to MoU; and local union activists and HR/Admin staff of the local enterprises who represent cases before the AC. As results through those meetings, the participants appreciated ACF's invitation to these meeting and praised the dedicate duty to share and disseminate them all the information. Further mover, they confirmed that those trainings were also transparent. Finally, they wished other trainings should be continued.

## 14. Partnership and Participation Plan Implementation Summary

The Arbitration Council and the ACF built on their experiences and to develop a strong and wide partnership with all relevant stakeholders and partners, which were essential in developing program content, including diversity of views, and building overall support and sustainability for the DFGG Project. During this reporting period, there were 26 partners (including 2 MoU partners from state institutions and 2 MoU partners from non-state institutions). Please see details as following:

No.	(A) Name of Partner Organization	(B) Brief Description of Partnership	(C) Highlight how this partnership supports DFGG objectives at the project and IA level:	(D) Key Outcomes to date	(E) Key Challenges in Maximizing the Value of this Partnership	(F) What is the Agreed Division of Labor for 2011 and how does this address (F)	(G) Contact Details: Primary Contact Person Tel: Email Office Address:	(H) Type of Partnerships (Commercial or non commercial)
1	Ministry of Labour and Vocational Training (MoLVT)	i) Training and capacity building; ii) Organising of National Industrial Relations; i) Consultation where necessary; ii) Project Collaboration Committee; iii) Seconded staff working on case management at AC v) Others as appropriate.	Partnership between ACF and MoLVT is vitally important for the work of the Arbitration Council. First both the MoLVT and AC are empowered by law to resolve labour disputes. The former by conciliation and the latter by arbitration. Both must	<ul style="list-style-type: none"> <li>Three officials of MoLVT are seconded to assist the Arbitration Council in case management.</li> <li>MoLVT conciliators received training on conciliation techniques from US experts in arbitration and mediation in</li> </ul>	Funding necessary to support staff seconded from MoLVT to assist the AC in case management is not covered by DFGG.	There is no need to discuss division of work between ACF and MoLVT. The framework for partnership seemed clear to both sides. Besides, ACF could consult with MoLVT leaders when necessary.	H.E. Seng Sakda, Director-General of General Department of Labour of Ministry of Labour and Vocational Training Tel: 012 666 658 Email: seng_sakda@yahoo.com  <u>Office Address:</u> N°. 3, Confederation de la Russie 12156 Phnom Penh, Cambodia. Tel: 023 884 375. E-Mail : mlvt.gov@camintel.com	Non-commercial

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			<p>work closely with one another if they want to ensure effective resolution of labour disputes.</p>	<p>March 2010 and Australian arbitrator in September 2010.</p> <ul style="list-style-type: none"> <li>• H.E. Seng Sakda and AC delegation exchanged Cambodia lessons and experience with US arbitrators in May 2010.</li> <li>• Chief of Secretariat of the Arbitration Council interned with Fair Work Australia, an arbitration and conciliation institution, in November-</li> </ul>				

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				<p>December 2010.</p> <ul style="list-style-type: none"> <li>• Project Collaboration Committee met in April and August 2010.</li> <li>• ACF consulted with MoLVT and organised National Industrial Relations Conference 2010, on 1 October 2010.</li> </ul>				
2	Ministry of National Assembly - Senate Relations and Inspection (MONASRI)	i) Assist to disseminate the Role, Duties and Achievements of AC through Land Law Dissemination Forum	This partnership helps promote the awareness and feasibility of the Arbitration Council beyond garment	N/A: The two organisations have not organised an event inappropriate for effective distribution of the promotional	The beneficiaries of the projects of MONASRI and ACF seem different with those of ACF being	MONASRI and ACF have not discussed this yet.	<p>Mr.Sat Samrith, MONASRI Project Manager, Tel: 012 580 116 Email: <a href="mailto:samritsat@yahoo.com">samritsat@yahoo.com</a></p> <p><u>Officer Address:</u> # 126 St.3 Sangkat Tunlebasak, Khan Chum Ka Moun, Phnom Penh,</p>	Non-commercial

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		<p>and Complaint Handling mechanism ;</p> <p>ii) Help to distribute AC 's IEC materials in LLD Forum;</p> <p>iii) Exchange experiences in complaint handling management.</p>	<p>industry. It could also enable MONASRI and ACF to improve their complaint handling management through exchanges of experience and therefore bring their provision of public services to the next level.</p>	<p>materials. However, representatives of both organisations did provide feedback to each other for improvement of project implementation at various forums such as MONASRI's stakeholder advisory group meeting.</p>	<p>workers and employers and their professional organisations and those of MONASRI being Cambodian farmers living in the rural areas.</p>		<p>Cambodia. Tel : (023) 221 416 (023) 221 491 (023) 213 571. Fax : 023 221 416</p>	
3	Radio National Kampuchea (RNK)	<p>i) Promote ACF and its programs in all events and activities organized by the RNK;</p> <p>ii) Provide trainings to ACF staff on specific issues</p>	<p>This partnership helps promote the awareness and feasibility of the Arbitration Council through RNK radio programmes under DFGG. Listeners of</p>	<p>RNK sent its journalists to report about the National Industrial Relations 2010 held on 1 October 2010 at Raffles Hotel Le Royal. ACF's Executive Director was</p>	<p>RNK's Talkback Programme targets general public. Target audiences of the ACF programme should be workers and employers</p>	<p>RNK and ACF have not discussed this yet.</p>	<p>Mr. Thlork Mab, RNK Project Coordinator. Tel: 012 857 183 Email: thlork.mab@gmail.com</p> <p><u>Office Address:</u> St. 20 Preah Kossamak, Street 106, Sangkat Wat Phnom, Khan Daun Penh, Phnom Penh 12202, Cambodia Telephone: 855 (0) 23</p>	Non-commercial

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		<p>related to the RNK DFGG project;</p> <p>iii) Air Talkback Radio and Spots that are part of the DFGG;</p> <p>iv) Air information about Law Dissemination campaign by ACF;</p> <p>v) Distribute IEC materials related to DfGG;</p> <p>vi) Send reporters to cover some DfGG activities upon request by ACF.</p>	<p>the Talkback Programme and AC stakeholders could also learn of labour dispute resolution process and their labour rights according to law.</p>	<p>also invited to speak at the Talkback programme in 28 June 2010 on Labour Dispute Resolution Process in Garment Industry.</p>	<p>covered by the Cambodian labour law. It would be more effective if RNK and ACF could work together to establish a separate programme exclusively for ACF to target its appropriate audiences.</p>		<p>722869. Fax: 855 (0) 23 427319, 855 (0) 23 723610</p>	
4	Australian Institute of Mediators and Arbitrators (AIMA)	<p>i) Coordination of conferences and events;</p> <p>ii) Exchange of</p>	<p>This partnership corresponds well with</p>	<p>None. ACF tried contacting IAMA a few times in 2009</p>	<p>Distance and lack of fund on IAMA side may</p>	<p>IAMA and ACF have not discussed it yet.</p>	<p>Mr. Peter Shears, CEO of Australian Institute of Mediators and Arbitrators</p>	<p>Non-commercial</p>

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		<p>publications and information;</p> <p>iii) Exchange of expertise;</p> <p>iv) Cooperation in research and development programs and training.</p>	<p><i>Strategy 3</i> set out in Component 3.1 of ACF Project Proposal. Coordination of conferences and events, exchange of publications and information, exchange of expertise, cooperation in research and development programs and training all would enable improvement in knowledge and skills of arbitrators and therefore provide even better quality services to users.</p>	<p>and 2010 but there were no response.</p>	<p>contribute to the challenges in maximizing the value of this partnership. Another challenge could also have to do with staff turnover on both sides.</p>		<p>Email: ceo@iama.org.au</p>	

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5	Integrating Human to Quality (IHQ)	i) Selection of worker and employer representatives for the project ii) SWOT analysis to identify and work with the selected unions to develop their communication strategy with their audiences, union members, other unions and the management iii) Development of training strategies iv) Promotion of binding arbitration by the Arbitration Council v) Training on	This partnership expanded the outreach of ACF to educate worker and employer representatives about labour dispute resolution process. It also contributes to the promotion of binding arbitration by the AC.	<ul style="list-style-type: none"> <li>• ACF and IHQ worked together to select worker and employer representatives for training.</li> <li>• IHQ consulted ACF in the development of the tools for SWOT analysis to identify and work with selected unions to develop their communication strategy with their audiences, union members, other unions and</li> </ul>	Sustainability of the partnership may be an issue. IHQ was selected to partner with ACF under NSAC grants of DFGG, for only a limited period of time.	Division of work was clearly discussed between ACF and MoLVT during the formation of the project. ACF and IHQ will work together for their project to continue into 2012 and beyond.	Ms. Ann Vireak, IHQ Executive Director Tel: 012 471 476 Email: vireak@ih2q.org  <u>Office Address:</u> #85E, St.172 Phnom Penh. Tel: 023 214 670, 016 346 061, 077 577 550. E-mail, : info@ih2g.com	Non-commercial

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		binding arbitration by the Arbitration Council vi) Promotion of CBA		management • IHQ developed their training strategies in consultation with ACF.				
6	The Asia Foundation (TAF) through NSAC grants:	i) Training on topics related to labour law and industrial relations; ii) Establishment of a one-stop shop for information about labour dispute resolution; iii) Production and dissemination of a guide to labour dispute resolution; iv) Award	This partnership expanded ACF's outreach efforts to educate worker and employer representatives about labour dispute resolution process. It could also contribute to emerging projects that together bring about industrial relations and effective enforcement	<ul style="list-style-type: none"> <li>• TAF organised a forum in which ACF was invited to display its products.</li> <li>• TAF consulted the ACF for the next round of NSAC grants.</li> <li>• Integrating Human to Quality (IHQ) was selected under the partnership grants to partner with</li> </ul>	N/A	TAF would inform ACF of the announcement of the next round. ACF would share it with potential partners.	Mr. Gavin Tritt, TAF Country Representative Tel: 023 210 431 Email: gtritt@asiafound.org  <u>Office Address:</u> The Asia Foundation – Cambodia, House No. 59 Oknha Peich (St 242) Phnom Penh, Cambodia Tel: + 855 (23) 210-431 Fax: + 855 (23) 217-553 Email: tafcb@asiafound.org	Non-commercial

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		Compliance Monitoring; v) Facilitating better organisation and increased stakeholder capacity in areas where unions and/or employer organisations are inactive or non-existent; vi) Formation of an independent Industrial Relations (IR) Society; vii) Formation of a labour law review journal.	of, and compliance with, the labour law. Last but not least, it could improve access to information about labour law and labour dispute resolution in Cambodia.	ACF.				
7	East-West Management Institute (EWMI)	i) Sharing lessons and experience	This partnership aims to	<ul style="list-style-type: none"> <li>ACF organised the mock</li> </ul>	N/A	Both EWMI and ACF would	Mr. Steven Austermilller, Legal Education Advisor Tel: 012 304 496	Non-commercial

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		<p>in production of broadcast media tools;</p> <p>ii) Others as appropriate.</p>	<p>improve staff capacity to perform their work better.</p>	<p>arbitration organised at Pannasastra University of Cambodia (PUC) in September 2010, in consultation with EWMI.</p> <ul style="list-style-type: none"> <li>• ACF staff learned from EWMI staff production of broadcast media tools since the latter was experienced in production of Scale of Justice.</li> <li>• ACF trained EWMI's sponsored Legal Clinic</li> </ul>		<p>welcome each other's request for exchanges of lessons learned and experience.</p>	<p>Email: austermiller@ewmi-praj.org</p>	

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				students in alternative labour dispute and labour dispute resolution.				
8	Royal Academy for Judicial Professions	i) training on labour dispute resolution ii) others as appropriate.	This partnership aims to educate future Cambodian judicial professionals such as attorneys-at-law, court clerks, prosecutors and judges in labour dispute resolution and raise their understanding about alternative dispute resolution. This could result in	None. Royal Academy of Judicial Profession could not recruit new students until early 2011.	N/A	N/A. Royal Academy of Judicial Profession agreed to invite ACF to provide guest lecturers for their new students every year.	Mr. Ang Eng Thong, Dean Tel: 016 851 213 Email: ltc@online.com.kh  <b>Office Address:</b> <i>No. 17, Chakrey Nhek Tioulong (St. 466), 12301, Phnom Penh , Tel &amp; Fax: 023 726 173</i>	Non-commercial

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			favourable conditions for the AC to resolve labour disputes outside of court system and therefore provide a reliable platform for workers and enterprises to settle their disputes.					
9	Cambodian Federation of Employers and Business Associations (CAMFEBA) and Garment Manufacturers Association of Cambodia (GMAC)	i) Training on labour dispute resolution, case preparation before the AC; ii) Capacity building for employer representatives responsible for labour	i) Training on labour dispute resolution, case preparation before the AC; ii) Capacity building for employer representatives responsible for labour	This partnership aims at educating representatives of enterprises about labour dispute resolution process and case preparation at the AC. Increased capacity of the	Various training sessions on labour dispute resolution and case preparation were organised for officers of enterprises in partnership with GMAC and	ACF would continue providing training for union officers. GMAC and CAMFEBA would assist ACF in inviting the representatives of their members to the training. GMAC also	Mr. Kaing Monika, External Affairs Manager Tel: 012 602 222 Email: kaing@gmac-cambodia.org  Mr. Som Chamnan, Executive Manager Tel: 012 722 371 Email: som_chamnan@camfeba.com  <b>Office Address:</b> Address: No. 44A, Street 320, Sangkat	Non-commercial

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		dispute resolution	dispute resolution	representatives, users of AC services, is essential for effective dispute resolution by the AC.	CAMFEBA.	agreed to provide venue and coordinate the sending of invitation to its members in 2011.	Boeung Keng Kang III, Khan Chamkar Morn, Phnom Penh, Cambodia. Tel: (855) 23 222 186 Fax: (855) 23 222 185 Email: <a href="mailto:camfeba@camfeba.com">camfeba@camfeba.com</a>	
10	Labour Union	i) Training on labour dispute resolution, case preparation before the AC; ii) Capacity building for union members	This partnership aims at educating union officers about labour dispute resolution process and case preparation at the AC. Increased capacity of union officers, users of AC services, is essential for effective dispute resolution by the AC.	Various training sessions on labour dispute resolution and case preparation were organised in partnership with a number of active labour union federations and confederation.	N/A	ACF would continue providing training for union officers. Union federations and confederations would assist ACF in inviting their local unions to the training.	Mr. Ath Thorn, President of C.CAWDU Tel: 012 998 906 Email: <a href="mailto:thorn.clc@gmail.com">thorn.clc@gmail.com</a>  Mr. Som Aun, President of Cambodian Labour Union Federation (CLUF) Tel: 012 866 682 Email: <a href="mailto:som_aun@yahoo.com">som_aun@yahoo.com</a>  Mr. Vong Sovann, President of Cambodian Workers Labour Federation Union (CWLUFU) Tel: 012 785 890 Email: <a href="mailto:cctu@online.com.kh">cctu@online.com.kh</a>	Non-commercial

Beside above partners, AC/F also maintained other institutes as its partners. For instance, AC/F provides some training to law students in University of Cambodia, Mekong University, Pannasastra University of Cambodia, and Royal University of Law and Economics. With same objectives, Cambodian Center for Human Rights – Cambodian Business & Human Rights, Volunteering for International Development from Australia (ViDA), Australian Business Volunteers (ABV), Australian Industrial Relations Commission (AIRC), now known as Fair Work Australia, Australian Volunteers International (AVI), Labour Unions, Community Legal Education Center, ILO-Worker Education Project, ILO-Labour Dispute Resolution, Better Factories Cambodia (BFC), American Center for International Labor Solidarity and Work Information Center also still made good cooperation with AC/F in order to improve industrial relations together. The detail activities will be reported in 1<sup>st</sup> Quarter of 2011.

**Formation of Working Groups consisting of Industrial Relations stakeholders in Cambodia:** The Project Collaboration Committee (PCC) is platform for information sharing between the AC/F and the Ministry of Labour and Vocational Training (MoLVT) and for coordination of joint or complementary activities throughout the DFGG Project; and the Stakeholder Advisory Group (SAG) is a platform for sharing between AC/F and key stakeholders. The PCC and SAG have already been established during in this reporting. As results, ACF organised twice PCC meeting (4 April and 24 August 2010). Project Collaboration Committee meeting was organised at the Ministry of Labour and Vocational Training. At the meeting, ACF informed MOLVT of (1) the organisation of training on conciliation techniques for the conciliators by Commissioner Michael Gay of Australia-based Fair Work Australia; (2) that of the National Industrial Relations Conference in early October 2010 and (3) donation of more than ten computers from Fair Work Ombudsman for MOLVT conciliators. General Director of General Department of Labour H.E. Seng Sakda, who chaired the meeting, was supportive and told ACF to follow the formal procedures for cooperation by MOLVT.

SAG convened its first meeting at ACF offices on 25 June 2010 in attendance from Mr. Mathew Randal and Mr. Chhun Tek, Board members of CAMFEBA; Mr. Sok Narith, Vice President of Cambodian Tourism and Service Workers Federation (CTSWF); Mr. Som Aun, President of Cambodian Labour Union Federation (CLUF); and Mr. Tho Bunthan, Deputy Head of MOLVT's Department of Labour Inspection and Mr. Chan Sovannareth, Deputy Director-General of MOLVT's General Department of Labour. The topics for the meeting included review of the Terms of Reference of the SAG members; overview of the Arbitration Council and Arbitration Council Foundation; report on ACF activities under the DFGG Project; and Non-State-Actor Grants implemented by The Asia Foundation (TAF) under DFGG Project to involve non-state actors in promoting good governance in partnership with all IAs. From the meeting, the SAG members better understood the work of the ACF to support the AC and their role in the SAG. They also was informed of the opportunity either for their organisations or their member partners or networks to partner with ACF to further improve industrial relations in Cambodia. In fact, Mr. Som Chamnan, Legal Manager of CAMFEBA, contacted ACF Manager of Training & Communications for information about the partnership opportunity and said CAMFEBA was interested in applying for the grants.

**Training for Ministry conciliators:** On 30 September 2010, at the invitation of the ACF, Commissioner Michael Gay provided training to some 30 conciliators of the Ministry on

conciliation techniques with the focus on how to best conciliate disputes between unions and unions; how to negotiate an effective Collective Bargaining Agreement (CBA); and how to convince parties to comply with CBA they already have reached.

**Meet & Greet between arbitrators and employer and employee representatives:** ACF organised two separate events – “Meet & Greet with Employee Representatives and Meet and Greet with Employer Representatives”, in August and September 2010. The purpose of these events is to provide chance the arbitrators and their clients to discuss issues related to labour dispute resolution and the Arbitration Council. These gathering, employee representative and employer representatives, also presented opportunities for AC clients and prospects to learn of expertise of arbitrators and for AC arbitrators to promote themselves in expectation that they will have better chance of being selected for cases. As results, there are some 30 key players from companies, Garment Manufacturers Association of Cambodia (GMAC) and Cambodian Federation of Employers and Business Associations (CAMFEBA) as well as other 30 key players from trade unions who played active role in selection of arbitrators for cases before the Arbitration Council attended the event. At the end of the events, all participants expressed gratitude to the Arbitration Council for the fair, reliable and effective process of labour dispute resolution and for its programme for increased capacity of their staff in preparation and presentation of cases in arbitration hearings.

**Joint-training twice with Community Legal Education Center’s Workplace Relations Group (CLEC - WRG):** First, it was conduct in 25 February 2010 offered by ACF’s Senior Legal Officer. The second training was conducted on 27 June 2010 provided by ACF’s Director of Legal Service Department. Both trainings focused on preparing case before Arbitrator Council to legal staff of American Center for International Labour Solidarity (ACILS) and advocates of union federations in Cambodia (52 participants). The cooperation will continue and be expanded into other areas, where possible, throughout and beyond DFGG project.

**Joint Garment Training Directorate:** ACF contributed to the development of the Joint Garment Training Directorate initiated by Better Factories Cambodia (BFC). ACF training programs will be published in the directorate in the form of hard copy. The website will also be developed to hold the content of the directorate for online access. Meanwhile, ACF provided financial contribution to the initiative. It is expected that ACF contribution in this project will serve two-pronged purposes: raising awareness of the AC and partnership building.

**Study tour by law students:** During this reporting period, three groups of students of Royal University of Law and Economics (RULE) received supports from ACF for their thesis on Labour Law and Labour Dispute Resolution in Cambodia. ACF provided some form of supports: 1) provision of physical space in the ACF library for their reading and researching, 2) lending books, 3) interview with legal staff, and 4) free distribution of certain publications such as leaflets on case preparation before the AC, handbook on AC and labour dispute resolution and arbitral awards of the AC.

**Interns with ACF:** During the reporting period ACF provided internship opportunity to the following persons: Ms. Angelica Nikolausoon from Macquarie University in Sydney, Australia, and Mr. Moeung Theara, local legal interns; Mr. Eung Saravuth, translation intern;

Mr. Chea Kanara, translation inter, and Mr. Chea Phalla, Training and Communications Intern.

**Continued cooperation with the ILO - the selection and recruitment of arbitrators:** As in 2009, ACF has determined that no additional arbitrators were needed, and thus no new arbitrators were recruited in 2010. ACF is in the process of discussing the arbitrator selection procedure with MoLVT and the ILO-LDRP.

## **15. Lessons Learnt and Learning Activities Summary**

One of the lessons learned from the project concerns the Arbitration Council's success rate. While a success rate of 70.11% (including mediated agreements) is promising, it also means that approximately 30% of the cases remain unresolved. In particular it would be desirable to improve the implementation of arbitral awards as this would further enhance the credibility of the AC. Though the AC and the ACF themselves have no direct control over implementation of awards, and the causes of non implementation are both nuanced and varied, it anticipates several actions to address this issue. To this end, the ACF has been executing the following strategies:

- implementing Memorandum of Understanding on Improving Industrial Relations in the Garment Sector signed on 28 September 2010 between the Garment Manufacturers Association of Cambodia (GMAC) and six major union federations and confederations which it states binding arbitration by the Arbitration Council for rights labour disputes from 1 January 2011;
- continuing to improve the skills and capacity of AC Arbitrators in resolving disputes for parties;
- strengthening cooperation with social partners to promote collective bargaining agreements that provide for binding arbitration by the Arbitration Council;
- strengthening the mediation function at the Arbitration Council through targeted mediation training and exploring a designated mediator pilot project;
- Conducting a study on the feasibility for providing individual labour dispute resolution services by the Arbitration Council;
- improving the capacity of stakeholders' to engage in the arbitral process effectively and raise their awareness of the benefits of binding arbitration through targeted training sessions; and
- continued publication of arbitral awards, allowing third parties to monitor compliance with awards.

A second lesson learned is that the Arbitration Council's early successes and continuing achievements are a testament to the strength of alternative labour dispute resolution (ALDR) as the principle method for resolving labour disputes in Cambodia. Challenges, however,

remain for the AC/F and for ALDR more generally in Cambodia. The AC/F is part of a larger dispute resolution system in which the Royal Government of Cambodia's Ministry of Labour and Vocational Training plays a vital role, particularly its Department of Labour Inspection (in dispute prevention), Department of Labour Disputes (in conciliation) and Secretariat of the Arbitration Council (in case administration for the AC). The continued success of the AC/F and progress of ALDR in Cambodia is therefore intimately tied to the functions and development of the Ministry as well.

A third lesson learned is that success of the Arbitration Council can be maximised as a result of partnership with relevant agencies working in labour area. These agencies are the key players in Cambodian industrial relations, and their work impact on the industrial relations landscape as a whole. Such agencies include the International Labour Organization (Labour Dispute Resolution Project, Better Factories Cambodia, and Workers Education Project), Community Legal Education Center, Worker Information Center, Garment Industry Productivity Center, etc. The Arbitration Council Foundation's partnerships with these agencies have created synergies in advancing stability in the industrial relations in Cambodia. The Arbitration Council Foundation therefore will continue and advance its partnership with the agencies.

A fourth lesson learned is that the effectiveness of the AC/F and of the labour dispute prevention and resolution system in Cambodia depends to a substantial degree on the knowledge and capacity of stakeholders in the system, and therefore, the road to success must include proper training for both employers and employees. Stakeholder awareness and their knowledge and competence to utilize the Arbitration Council as a forum for resolving disputes and moving the parties employment relationship forward have been a challenge in Cambodia. Surveys of garments workers about their recognition of the Arbitration Council have indicated a need for more extensive outreach efforts; the collective experience of arbitrators, SAC officials and ACF staff in labour dispute cases reveal broad and varied but generally relatively low levels of competence among stakeholders' ability to make use of the arbitral system; and stakeholders themselves have indicated their desire for continued capacity building and training. Efforts by the ACF to educate stakeholders include regular and expanded outreach programmes in the community to educate workers, employers, lawyers, law students, and community members on the structure and proceedings of the Arbitration Council, as well as a website with, and frequent hand-distribution of, published decisions of the Arbitration Council in both Khmer and English.

## **16. Critical Issues Moving Forward**

Sustainability:

Long-term sustainability of the Arbitration Council relies on two key issues: financial sustainability and institutional sustainability:

1. Long-term financial sustainability beyond DFGG project is an important and difficult challenge for the AC to continue its services after the scheduled completion of DFGG project in March 2013. This is connected with the absence of a viable funding model for the AC. ACF will have to study and execute few strategies to ensure the necessary

funding. These will relate to the Study to Quantify the Value of the Arbitration Council Services and Sustainability Study for the Arbitration Council. In the meantime, ACF has identified a few strategies to move forward:

Primary funding sources:

- Seeking funding contribution from the direct beneficiaries of AC services: ACF will need to discuss with the employers, unions, and workers, and the Government, to secure their funding contribution to support the AC – mainly through the Stakeholders Advisory Group of ACF.
- Continuing to solicit funding from other sources, including from general donor community and the international buyers sourcing from Cambodia.

Complementary funding sources:

- ACF providing certain services for fees: including potential mediation services for individual labour disputes, sale and subscription programs of ACF publications, trainings on negotiation and mediation skills for potential clients.
- 2. Institutional sustainability: Appointment of the Arbitrators to the Arbitration Council needs to have a transparent and credible process that is consulted with the relevant stakeholders of the Council. In this respect, ACF will work in consultation with the ILO to finalise such arbitrator appointment process.

Awareness and Understanding of the Concerned Stakeholders about the Memorandum of Understanding on Improving Industrial Relations in the Garment Industry has been low. Such awareness and understanding is important for the Council in helping the dispute parties to implement the Memorandum successfully. In the next couple of months, the ACF will continue working with its partners to ensure that the relevant stakeholders become more aware and understand the Memorandum of Understanding.

Moreover, the delay in development of media tools (soap opera/PSA/training video) for promotion of the AC within 2010 will prevent the ACF to reach its full output results of information dissemination to its target group for the year one of DFGG project. During the reporting period, ACF met with Women's Media Centre of Cambodia (WMC) on 29 November 2010 to negotiate the contract for production of training video and PSA and signed the contract on 21 December 2010. Under the contract, the two broadcast media tools will be produced by mid May 2011. Hence, two out of the four episodes of soap opera were committed to achieve by 2011, whereas the last two would be produced in late 2011 and the launching of those tools to target audiences will commence by late of 2011.

## **17. Conclusion and Recommendations**

In the reporting period, ACF made significant achievements toward project development objectives by carried out main project activities including organizing the sessions for AC governance, AC/F retreat, heard the labor dispute resolution, organising the foreign trainer

visit for the capacity building of arbitrators, staff of ACF and SAC, and its stakeholders (officials of MoLVT, employers and union federations, etc). In overall work progress against project implement plan (PIP), there are 57 planning activities proposed in the Project Implementation Plan (PIP) of the AWP 2010. Out of the 57 activities, 41 or (72%) were fully completed; 10 or (18%) were in-progress and 6 or (10%) were not applicable and /or carry over to year 2011. Furthermore, there are 20 key milestones proposed in AWP 2010. As results, out of the 20 milestones, 14 or (70%) were fully completed; 1 or (5%) was in-progress and 5 or (25%) were not applicable and /or carry over to year 2011. The remaining milestones are in progress, or forwarded to be implemented in 2011 such as studies on economic value, sustainability, fundraising, and media tool developments. Interestingly, ACF completed two studies – Baseline and Demand for AC service. These studies found that higher rate of awareness, understanding, level of independence, credibility, effectiveness and potential areas for expansion AC's services.

For the performance result indicators, ACF lacked its target value of 145 cases, which is 11% lower than the target value of year 2 (of 163) due to the split of two major unions FTUWKC and KYFTU which were less organised and smaller; unions and workers tried to settle their disputes at the factories level. However, the overall success rate of resolving the labour dispute is increased at 70.11% if compared to 2009 (69%). Other two other indicators for ACF management showed ACF did not reach planned targets: (i) cases received from outside greater Phnom Penh 1% lower than the target value while case received from garment sector met its target value (12%). To the extent that the AC primarily received the dispute cases forwarded to it by the MoLVT, the sources of cases are not under direct control of AC/F. Nonetheless, ACF will keep trying all the best to complete all activities again its annual workplan of 2011 and expects that both output and outcome indicators will be improved.

Long-term financial sustainability for AC after the completion of DFGG project remains a critical challenge for ACF and stakeholders of the AC to resolve.

## **Attachment – AWP for Current Year**