



ANNUAL REPORT | 2022



INVESTING IN THE FUTURE

**The Arbitration Council's Commitment to
Sustainable and Harmonious Industrial Relations**



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BOARD OF DIRECTOR CHAIRMAN'S MESSAGE

Dear Readers,

I would like to start with wishing everyone happiness, safety, health, physical and social security, joyfulness, solidarity, harmony, confidence, competency, and productivity for 2023. I would also like to give thanks for the peace, stability and impressive decades-long fast-growing socio-economic development resulting from the governments win-win policy, post-COVID-19 improvements and booster vaccinations, and preventive measures, as well as the collaboration and contribution of all local and international stakeholders.



While Cambodia is readily welcoming new investors and offering greater support and incentives to new and existing investors and owners of small, medium and large enterprises under the new investment law and reformed taxation regimes, promoting industrial development, diversifying and promoting commercial farming, welcoming tourists from all over the world, expanding effective coverage of social protection system, and developing procedural rules and institutional setup for a specialized commercial court and labour court, the Arbitration Council (AC) and the Arbitration Council Foundation (ACF) is working with the Ministry of Labour and Vocational Training (MLVT) and relevant partners on organizing an event to celebrate the AC/ACF 20th Anniversary in the next few months.

We believe that representatives of all stakeholders will be invited to join the celebration. On that occasion we will have an opportunity to present a retrospective regarding what we have done and achieved for Cambodia, as well as the tripartite stakeholders. We also hope to present the initial findings and proposed AC/ACF institutional restructuring models which would still ensure the independence, reliability, trustworthiness, effectiveness and transparency of the institution in promoting, supporting and delivering collective and individual labour dispute resolution as an valid alternative and complement to judicial resolution in line with the spirit of the Constitution, the Labour Law, and other relevant laws and regulations of Cambodia.

Simultaneously, we are preparing our teams, as well as the stakeholders, especially the workers and employers, to pilot delivery of an expanded AC role in conciliating and arbitrating individual labour disputes pursuant to the amended Labour Law and applicable Prakas of the MLVT. In addition, we will be busy with preparation, furnishing and relocating AC/ACF/SAC offices to a new premises at the new National Social Fund building, the construction of which is being completed.

ACF continues to work closely with MLVT and relevant partners to; develop training curriculum for Arbitrators regarding individual dispute resolution, encourage review and adoption of a Code of Ethics for Arbitrators, support creation and function of a Full Bench of Arbitrators who are tasked with addressing internal conflicting legal interpretations and approaches among various panels of Arbitrators in dealing with certain sensitive legal hierarchy questions or ambiguous legal or regulatory provisions, and to finalize and adopt a Gender Equality and Equity Policy for ACF.

Last, but not least, we are hoping that each and every stakeholder will play greater actively constructive and supportive roles in developing a clear roadmap for the AC/ACF institutional restructure to solidify the AC as a strong, independent, effective, reliable and transparent national institution with sustainable financial resources and which continues to fairly balance the interests of employers, workers/unions and the government of Cambodia.

A handwritten signature in blue ink, consisting of stylized, cursive letters that appear to read 'Nhean Somunin'.

Nhean Somunin

Chairman of ACF Board of Director

EXECUTIVE DIRECTOR'S MESSAGE

Dear Readers:

In 2022, with continuous technical and legal service of the ACF and support of the Secretariat of the Arbitration Council (SAC), the AC has handled 50 collective dispute cases with a 75.16% success rate. This number brings the total to over 3,000 cases for the whole period since the inception of the AC. The average time to hear a case and issue an arbitral award is 30 days.



The ACF continues to work with relevant stakeholders and partners to further improve and expand the AC dispute resolution services, driven by the key principles of credibility, independence, professionalism, and effectiveness, all of which are highly valued by all labour actors. Pursuing the same principles, the ACF is committed to providing outstanding support to the AC to resolve both individual disputes and collective disputes in accordance with the law and policies of the Royal Government of Cambodia in 2023 for many years to come.

To prepare for the expanded AC jurisdiction, the AC members and ACF staff have worked together to complete drafting several key documents, such as a draft Prakas on individual dispute resolution services and a proposal on training and recruitment of new Arbitrators. These two high-quality major documents have been provided to the Ministry of Labour and Vocational Training (MLVT) as professional input to further develop procedural rules and technical improvement toward arbitration institutional rejuvenation and development.

As always, ACF staff look forward to continued cooperation with all AC members, MLVT and government officials, employee representatives and trade unions, employer associations, development partners, and all other labour stakeholders in the best interests of Cambodia's industrial relations. Above all, ACF is prepared to welcome partners' and stakeholders' inputs for further performance improvement in 2023 and the coming years.

A handwritten signature in blue ink, which appears to be 'Men Nimmith'. The signature is fluid and stylized, with a long, sweeping flourish extending to the right.

Men Nimmith
Executive Director, ACF

1. LABOUR DISPUTE SETTLEMENT BY THE ARBITRATION COUNCIL (AC)

1.1. COLLECTIVE LABOUR DISPUTES REGISTERED AT THE AC


As in the previous years since its inception in 2003, the AC has heard cases from a range of industries across Cambodia, including garment and footwear, handbag, hospitality and tourism, construction, transportation, food and services, security, media/telecom, printing, manufacturing, and agriculture sectors. It is notable that, from May 2003 to 2022, 60% of cases came from Phnom Penh, and another 40% came from the provinces.

These labour disputes have been addressed in a timely and transparent manner by conciliation and arbitration processes, and by issuing an arbitral decision.

As of 2022, the AC has handled a total of 3,042 cases affecting more than 1.18 million workers. The AC process is efficient and cost-free to parties. The success rate of the labour dispute resolution is 75.16%. This achievement is the same as the preceding year.

From 2003 - 2022

 **3,042 Cases**

 **Affecting more than 1.18 million workers**

The success rate of the labour dispute resolution

75.16%

1.2. TREND OF CASES REGISTERED

Due to the fact that there was an increase of cases from 2018 (59 cases) to 2019 (117 cases), it was expected that each of the following years would also see an increase of cases; however, that period did not account for the impact of the COVID-19 pandemic. Cases decreased in 2020 and further decreased in 2021. Despite the restrictions on people movement being lifted in Cambodia since April 2022, only 50 total cases were registered at the AC in 2022. From formal and informal interactions with partners and AC stakeholders, ACF team received mixed explanations as to why the number of cases registered at the AC has decreased. Among the labour tripartite parties, one explanation is that the number of cases at the AC remained low because negotiations and conciliations at workplaces and the State's institutions respectively have improved. Another group maintained that there are many labour disputes at various workplaces, but complainants find it hard to reach the AC jurisdiction. Others pointed to the changed classifications of disputes (individual versus collective), prior to the AC processes, and difficulties in union registration as additional reasons behind the lower case rate.

Figure 2. Cases registered trend for the period of 2018-2022 by year



1.3. TYPES OF DISPUTES ISSUES REFERRED TO THE AC

The AC plays a role in solving collective labour disputes in Cambodia, and only as specified in a non-conciliation report referred to the AC by a conciliator designated by the Ministry of Labour and Vocational Training (Article 312 of the Cambodian Labour Law, 1997).

In one dispute case, there can be a variety of issues dealt with at the same time. A range of issues, totalling over two hundred issues, were brought to the AC in 2022, and the table below shows the top ten types:

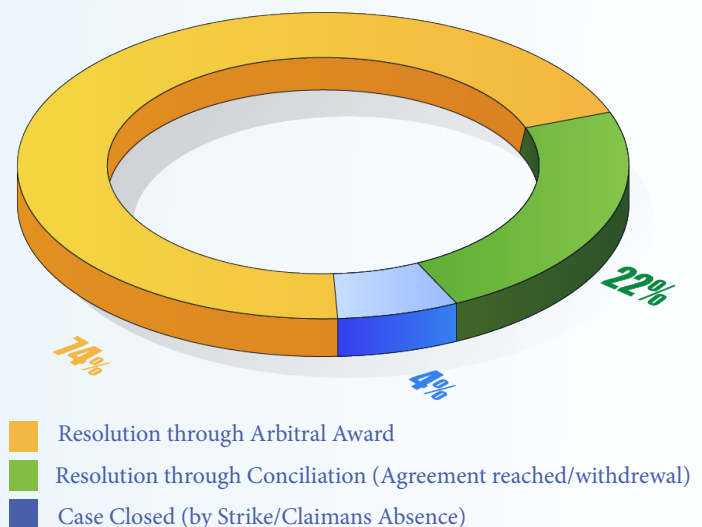
Figure 3. Top Ten Types of Issues Brought to AC in 2022



1.4. REACHING AGREEMENT VERSUS ARBITRAL AWARDS

A collective labour dispute referred to the AC can be resolved either by an agreement between the parties or by an arbitral award. Agreement can be reached through conciliation with the assistance of an Arbitral Panel; if no agreement can be reached, an arbitration process will take place to issue an arbitral award. The arbitral award data includes the cases that AC decided to close due to ongoing strike action or the failure of a claimant to attend the hearing. Preparing an arbitral award after the hearing requires additional time for more comprehensive research, legal analysis, and award writing.

Figure 4. Rate of Resolution of Registered Cases in 2022



In 2022, the average number of days taken to resolve a case at the AC was 30. This average reduced compared to that of 2021 which was 44 days.

The average number of days taken to resolve a case for the whole period from 2003 to 2022 is 22 days. According to Article 313 of Cambodian Labour Law 1997, AC has fifteen working days to handle a dispute case referred. This timeframe may be extended if parties agree to do so.

In 2022, there were 4 cases out of 50 involved strikes. There was only one strike case for which the AC issued a Return-to-Work Order and the strikers complied with the order.”

1.5. SIGNIFICANT CASE

What leads to harassment at workplace and how is it heard before the AC?

*This case note is extracted from Case 010/22- Can Sports Shoe Co., Ltd heard by arbitrator panel: Pen Bunchhea, Ing Sothy, Tuon Siphann. The arbitral award of this case was issued on 22 April 2022.

The claimants (workers/employees) brought this case against their employer whose core business is footwear manufacturing. This case consisted of ten issues, one of which was withdrawn by the workers. The remaining nine issues were arbitrated by an Arbitration Panel (AP). This case note will examine only issue No. 9, in which workers demanded the employer take action against male workers who took photos and recorded videos of their female co-workers in the rest room.

The employees stated that on 3 April 2021, a male worker went to the women's rest room and took photos of female workers in the rest room. The women employees alleged that it was an act of harassment. Then, on 4 February 2022, the female workers reported that three other male workers recorded videos of their female co-workers in the rest room. Later, the accused male workers were reported to have submitted the video and photos to their Chinese supervisor, who later was accused of forwarding the videos and photos to the administration department. In addition, the victims claimed that the videos and photos of the female workers had been shared so widely in the whole factory that they had been embarrassed.

The employer responded that they did not know anything about the sharing of any such kind of video as the female workers alleged. The employer maintained that they had only received photos and information about female workers sitting and chatting in the rest room during work hours.

Hard evidence of the videos recording the female workers in the rest room were presented at the AC hearing. The Arbitration Panel came to a key legal question regarding this issue which was whether the employer had an obligation to take action against the male workers who committed such conduct against the female workers?

Article 172 of Cambodian Labour Law 1997

“All employers and managers of establishments in which child laborers or apprentices less than eighteen years of age or women work,

must watch over their good behavior and maintain their decency before the public. All form of sexual violation (harassment) is strictly forbidden.”

Article 23 of Cambodian Labour Law 1997

“Internal regulations adapt the general provisions of this law in accordance with the type of enterprise... such as provisions relating the condition of... health and safety measures for workers, obligations of workers and sanctions that can be imposed on workers.”

Internal Work Rules of the company in this case No. 511 BK/KQ dated 10 June 2016, says that:

“4.2.2.25 There must be no discrimination, sexual harassment ... in any forms, the perpetrator will be punished by dismissal....”

4.2.2.33 Workers who committed inappropriate behavior, no discipline, inactive ..., for the first time will be warned orally, the 2nd and 3rd time will be warned by written and the 4th time will be terminated from work

4.2.2.49 Any workers violated factory policy such as sexual harassment policy ...is considered as serious misconduct and disciplined and/or terminated....”

The above-mentioned video showed the activities of a male worker who used a mobile phone to take photos in the female's rest room and then walked away.

Based on Article 23 and Article 172 of Cambodian Labour Law, Internal Work Rules of the company, and the video clip, the AP found the actions of the male workers described above inappropriate. Therefore, the employer was found to have an obligation to take action in accordance with the Internal Work Rules of the company to stop the actions of the male workers. As a result, an arbitral award of the Arbitration Council was issued in favor of the female workers.

This case has highlighted a significant lesson to be learned; the male worker, who took photos in the female rest room, did not see that his act was wrong. Without a doubt his employer seemed to support his performance and appreciated his submission of the photos. Furthermore, the employer used the photos to criticize the female workers for being lazy.

A lesson to be learned here was that the employer failed to draw a line between individual rights to privacy and the company's scope of monitoring of employees' work performance. This was a major factor that amounted to an intrusion of employees' privacy by an employer's agent, which the AC found to be wrong.

1.6. ACF'S CONTRIBUTIONS TO THE PREPARATION FOR INDIVIDUAL DISPUTE RESOLUTION



Since the Labour Law has been amended and promulgated by the Royal Kram No. 1021/011 on 5 October 2021 to authorize the Arbitration Council to handle individual labour disputes pursuant to Article 300 of the Labour Law Amendment, the Arbitration Council Foundation has participated in the preparation process for resolving individual disputes as follows:

1. ACF was invited to join an MLVT-led Tripartite Forum on 13 December 2021 to discuss key issues including enhancing AC and ACF's human resources, training and recruitment of new arbitrators, institutional development for sustainability, and disputing parties' direct access to AC services. In other words, the Forum aims to determine the future of labor dispute settlement by the AC.

2. At the forum, parties made a common commitment to maintaining a strong and independent Arbitration Council. A significant outcome of the forum was participants' consent to developing a joint roadmap to achieving AC independence, long term sustainability, and improved institutional capacity for resolving individual and collective disputes. Most of the participants at the forum agreed that the following are guaranteed:

- Transparent recruitment and training of new arbitrators,
- Sustainable funding by donors and tripartite constituents of the AC/F,

- Improved and/or direct access to jurisdiction of the AC, and non-interference in the AC process, and
- A legal framework (or Prakas) for individual dispute resolution services should be issued, and the AC should be open to resolve individual disputes as soon as possible.

3. Several months prior to the above Tripartite Forum, a joint ACF/AC law working group drafted a Prakas for governing the individual labour dispute resolution services by the Arbitration Council, and ACF/AC team presented the draft Prakas to MLVT delegation.

On 15 November 2022, ACF/AC were invited to join a Tripartite Consultative Workshop on the Procedure for Individual Dispute Settlement by the Arbitration Council that was co-organized by the MLVT and ILO. Minister Dr. Ith Samheng reiterated during his opening speech that the Ministry is committed to having the Prakas on Individual Labour Dispute Resolution finalized by the second semester of 2023. MLVT officials presented a section of their draft Prakas on Individual Dispute Resolution Services by the AC, which covered certain kinds of individual disputes (rights or interest disputes), and union leaders' rights to special protections.

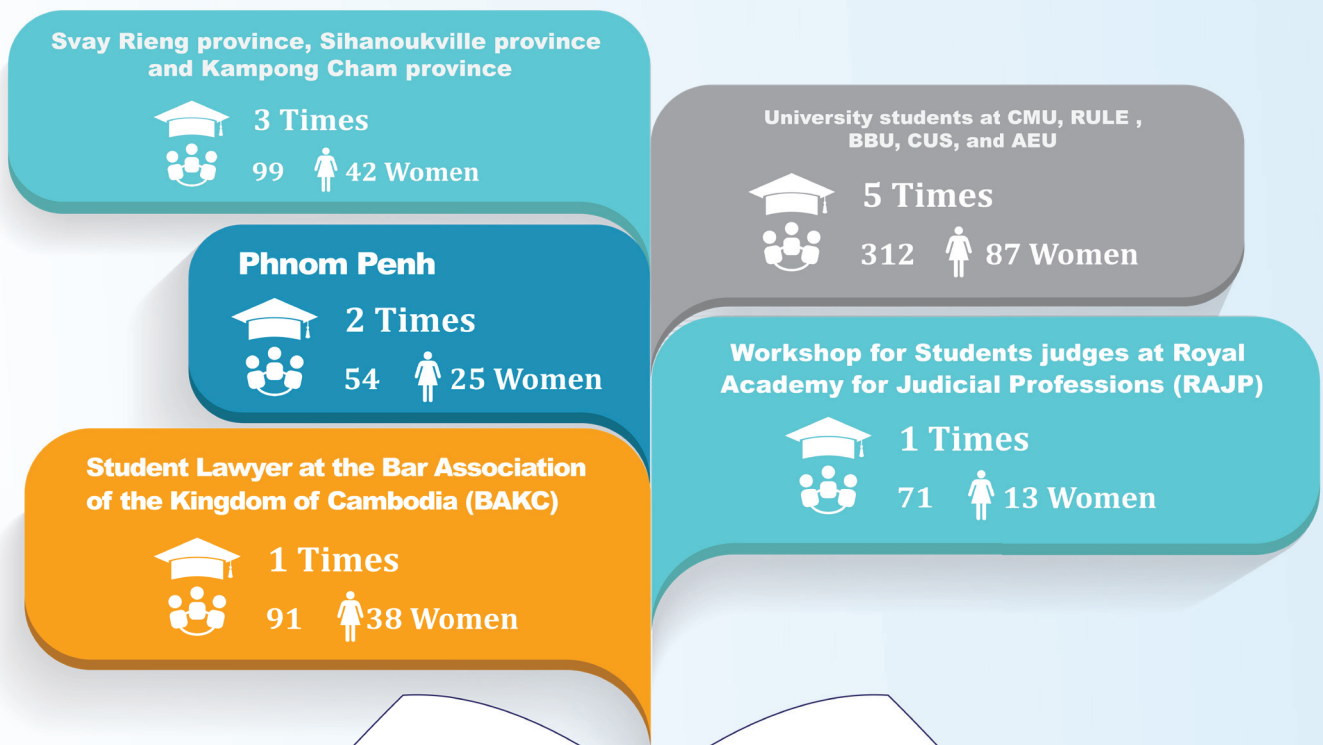
With respect to the presented section of the draft Prakas, ACF Executive Director Men Nimmith contributed that initially, at such an early stage of the AC individual dispute resolution experience, individual disputes about rights should be a priority. Secondly, disputing parties' rights, such as that of union leaders as the transition from one jurisdiction to another occurs, must be handled based on the existing law and merits of cases. Other ACF representatives actively participated in the group discussion to provide input regarding the number of Arbitrators per a hearing panel, types of disputes, and the procedures of appeals, etc.



2. PARTNERSHIP, TRAINING AND OUTREACH ACTIVITIES

2.1. TRAININGS/WORKSHOPS ON AC PROCESS AND CASE PREPARATION TECHNIQUES

In 2022, ACF, in collaboration with provincial department of Labour and Vocational Training, educational institutions, and legal practitioners' firms conducted numerous outreach training sessions for employer representatives, unions, workers, lawyers, government officials, law students and relevant industrial relations entities to increase public awareness and knowledge about AC services in resolving labour disputes in Cambodia. These trainings benefitted 627 individuals in total (including 205 women):



2.2. WORKPLACE DISPUTE PREVENTION AND RESOLUTION PROGRAM

Since 2020, ACF has been working with three factories (Horizon Outdoor, SEES Global and Sportex Industry) to implement the ACF Dispute Prevention and Resolution Program (DPRP) to improve workplace relations and cooperation. The purpose of the DPRP is to increase employers' and employees' specific skills, such as those in communications, negotiations, basic labour law and regulations which are key to dispute prevention and resolution, and continued social dialogue at the factory level.



In 2022, ACF organized a reflection workshop on the functioning of workplace dispute mechanisms with 30 participants attending (21 women) including employer representatives, worker representatives, and union leaders from the above three factories. The workshop reflected on the impact of the program as well as the functioning of workplace dispute resolution committees, challenges, solutions, and feedbacks for improvement.

Besides the reflection workshop, ACF has also provided training regarding conflict management and the responsibilities of workers, union representatives, and employers during the Collective Bargaining Agreement (CBA) process. There were 31 participants (23 women) from the same three factories.

2.3. ESTABLISHING AND MAINTAINING PARTNERSHIPS

2.3.1 NATIONAL ACADEMY OF ARBITRATORS (NAA) FROM THE US AND CANADA AND ACF'S INTERNATIONAL ADVISORY BOARD (IAB) VISIT CAMBODIA



ACF, in partnership with international institutions, coordinated a visit for the National Academy of Arbitrators (NAA) – a group of experts in labour mediation and arbitration from the United States and Canada. The delegates visited Cambodia for fraternal and educational purposes. During the visit, a series of activities, including a garment factory visit, were organized. A professional development session also took place during the visit. First, was a formal meeting with H.E. Ith Samheng, Minister of Ministry of Labor and Vocational Training and his delegation. Both sides exchanged institutional information and development updates and investigated potential capacity building assistance for the conciliation and arbitration profession.

Second, was an informal but very practical discussion with the employer associations TAFTAC and CAMFEBA where many technical and legal issues were discussed; for example, disputing parties' freedom and their access to a jurisdiction, and an appropriate number of Arbitrators in the Cambodian present context. Third, there was a round table meeting with union leaders with the specific purpose of learning about the Cambodian unions' wide range of experiences from establishment and registration to their operational difficulties and collective dispute resolution. The fourth and last meeting of the NAA delegation was a single full day of professional education and exchange session between seven of the NAA delegates and more than twenty Arbitrators and ACF staff members.

Among the NAA delegates who facilitated and participated in the session were emeritus professor, dean of business school, past and present presidents of the NAA, professor, arbitrators, and mediators from the US and Canada. Topics of the day included breach of contract, harassment, personal data collection and protection, evidence submissions, production, disclosure, etc. This professional exchange which covered a range of topics was one of the most productive activities.



2.3.2. MEETING WITH ILO DIRECT CONTACT MISSION



From the fourth week of March to early April 2022, the ILO Direct Contacts Mission (DCM) carried out its task in Cambodia. The DCM team met with at least four ministries and national policy authorities, many unions, employer associations, two NGOs, and UN representatives. ACF was one of the NGOs.

The ACF presentation to the DCM team demonstrated that ACF has provided a range of support services to the AC since 2005. In 2021 ACF was informed that a change to the AC structure was being considered by MLVT. The ACF team shared their view that any restructuring of the AC must take into serious consideration the maintenance of the AC’s credibility,

independence, and parties’ confidence. ACF team explained that under present circumstances the arbitrators are compensated with a modest fee per case and as they have limited time to write arbitral decisions, it was practical for the ACF’s legal service department to provide support for drafting the decisions. However, if the arbitration payment and time limit improve, the decisions should be written by the arbitrators. The meeting also covered several other issues including recruiting and training new arbitrators, financial sustainability, improving parties’ access to the jurisdiction of the AC, individual dispute resolution services by the AC, and types of individual disputes that can be brought to the AC.

2.3.3. EDUCATION SESSION WITH LAW STUDENTS FROM CHOU UNIVERSITY OF JAPAN



ACF collaborated with Chuo University of Japan and organized a Zoom education session for a group of law students. The session provided an opportunity for the students to interact directly with Mr. Men Nimmith, ACF Executive Director, to address the students’ questions. Key questions raised included ensuring institutional independence, ethics of the AC and decision-making. Other important questions covered topics such as: issuance of the awards by the AC, disputing parties’ awareness of the arbitral awards, differences between binding and non-binding decisions, types of disputes, and cases frequently resolved by the AC. ACF is eager to share knowledge and exchanging experience, related to AC’s labour dispute resolution, with national and international students.

3. MEDIA AND PUBLIC RELATIONS

Media and public relations are key parts of the Arbitration Council (AC) and ACF’s communications strategy and therefore of their activities for outreach and awareness raising. The AC services were promoted to a wider audience through its social media channels. In 2022, ACF conducted two seasons of ‘quiz campaign.’

The purpose of the campaign is to increase awareness of the operations and purpose of the AC/F in providing labour dispute resolution in Cambodia. Through the two campaign seasons, 08 posters with key messages about the AC and Alternative Dispute Resolution (ADR) were posted on the AC Facebook page. In total, 139,033 people were reached through these campaigns, 11,401 of whom actively engaged with the content. 48 winners were determined with prizes provided by ACF.



Public Engagement for Quiz Campaign

4. DEVELOPMENT OF BENCHBOOK ON CONTRACT TERMINATION

ACF printed 100 copies of the Benchbook on Contract Termination and it was distributed to Arbitrators and the ACF legal service team to provide abridged guidance on contract termination based on relevant laws and regulations of Cambodia. The Benchbook was developed as a reference book to assist the Arbitrators in resolving disputes related to contract termination.



5. INSTITUTIONAL INTEGRITY AND SUSTAINABILITY

5.1. BOARD OF DIRECTORS (BoD) AND INTERNATIONAL ADVISORY BOARD (IAB) MEETINGS

The ACF Board of Directors and International Advisory Board play a supervisory and advisory role respectively. Both address complex legal issues, institutional rejuvenation and development, funding, fundraising, and technical challenges experienced by the AC/F.

The BoD members share the view, with AC arbitrators, ACF staff, and stakeholders, that there were critical challenges throughout 2022 and will be more in the years to come. The main challenge currently revolves around the proposal to restructure the AC institution as a part of the MLVT's bigger plan for strengthening, empowering, and expanding (the SEE plan) of the AC institution. On the one hand, what is at stake is people's ongoing trust in the AC when it is reformed as a fully-incorporated state based Arbitration Council. On the other hand, the SEE plan implementation is a necessity.

During this reporting period many meetings of the BoD and IAB were held to address this kind of challenge, and many diverse views regarding the details of the suggested institutional changes have been dealt with.

The BoD and IAB do share the view that the AC credibility, independence, and efficiency are the main principles that will guarantee any future or progress of the AC. These principles are also key to maintaining contributions by this quasi-judicial body to Cambodia's labour sector stability, productivity, and competitiveness – seen by ACF as of national interest, benefitting all labour stakeholders. Therefore, it is reasonable that any commitment to strengthening, expanding, and empowering the AC preserves these principles to achieve the national interest.

Scenarios of AC Institutional Changes

Institutional restructuring of the AC is inevitable. From ACF's meeting reports, a few possible outcomes have been projected. The first, ACF may be merged with the AC as the latter becomes a fully structured state body under a tripartite governing board. In this way, the ACF organization will no longer exist; its staff, on voluntary basis, may or may not become staff of the new state AC. This is probably the most undesirable option.

The second option is that ACF may be separated from the AC, while the former still has the will and capacity to provide legal and technical supports to the latter as needed. Under this option, ACF expects to expand its cooperation with as many partners as possible beyond MLVT and the AC. This might be the second best and conceivable choice.

The third and most desirable option is that the AC and ACF joint structure is preserved while engaging in the opportunity for careful participatory reform of the AC, wherein the ACF plays a crucial ongoing role in cooperating with MLVT, worker organizations, and employer associations to continue working on a gradual and careful restructuring of the AC. In partnership with relevant stakeholders, ACF contributes to i) enhancing human resources of the AC; and ii) working on strengthening the legal and technical foundation to support collective and individual dispute resolution; and iii) improving parties' access to AC jurisdiction.

Strategic Objectives

AC credibility, independence, and efficiency will guarantee the AC future and progress; and that will, in turn, contribute to labour sector stability, productivity, and competitiveness. Therefore, AC-ACF joint professional operation and the ability to uphold labour rights and rule of law are indispensable.

To achieve these strategic objectives, it has been recommended that ACF continues to cooperate closely with all relevant partners for the next three to five years to achieve the AC institutional development. As at the end of 2022, ACF has secured financial support for the period 2023-2025 from RGC through MLVT, the Embassy of Sweden Section Office in Phnom Penh, and other development partners.

Way Forward

ACF has considered a three-year approach and would join in a collective effort to achieve the AC restructuring within the specified three-year timeframe, by participating actively in the following actions:

1. Training and recruitment of new arbitrators – recruitment committee membership and time frame;
2. Funding policy development including multi-sources funding blueprint;
3. Improving parties’ access or direct access to the AC jurisdiction; and,

4. Developing an arbitration framework for individual and collective dispute resolution services.

Thus, the ACF executive team hopes these effective guidelines and confidence to cooperate with all relevant partners and stakeholders will accomplish the second or third option mentioned above.

5.2. GENERAL MEETING OF ARBITRATORS (GMA)

The majority of AC members convene by a general meeting once a year to review progress to date, as well as current and upcoming challenges, discuss key legal and jurisprudential developments, consult regarding policy initiatives and priorities, and set the strategic direction of the AC.

This year, the General Meeting of Arbitrators (GMA) was organized in a hybrid format (in-person and online via Zoom link) with 16 arbitrators (3 of whom are women). The meeting topics traversed the future AC institutional



restructuring to ensure credibility, independent, and efficiency of the AC, and AC/F preparations for individual dispute resolutions at the AC to ensure the readiness of both legal procedures and Arbitrators professional capacity to provide effective services to disputing parties. During the discussion, the Arbitrators also agreed to form a new Full Bench on an adhoc basis to ensure the consistency of the arbitral awards issued. The Full Bench will be composed of nine members voted from the three different lists of Arbitrators.

5.3. REGULAR ARBITRATORS MEETING (RAM)



RAM are regularly scheduled to gather arbitrators, legal service department members, and the secretariat of AC, to discuss relevant issues regarding labour dispute settlement.

On 10 September 2022, 1st Regular Arbitrator Meeting was held in hybrid format (in-person and via zoom link) at Cambodiana Hotel with 25 participants with 7 women (14 AC members and 3 SAC members and 8 ACF management members).

The meeting agenda covered: an update about dispute cases registered at the AC and an update of trending issues/cases, review of the Full Bench’s duties, responsibilities, validity, and morality, and other administrative documents which are not legal instruments.

5.4. ACF/ARBITRATORS STRATEGIC CONVOCATION

ACF organized a Special Arbitrator Meeting with 13 arbitrators (4 women) and 9 ACF staff (4 women) to discuss the future of the AC institution, to share suggestions and obtain information regarding the structure of the AC to help inform and guide the ACF and AC members creation of a joint position strategy, and other related issues such as consideration of full/part-time arbitrators and a sustainable funding model to support the AC.

The meeting participants shared the same view as the ACF; the arbitration institution must be independent, credible, and efficient for the parties to access the services of the AC. Therefore, any AC institutional reform should maintain the four core values of the AC, especially the selection and training of new arbitrators should be conducted transparently with the participation of tripartite and expert parties and avoid the appointment of arbitrators by any single party.

6. AC/F AND SAC PROFESSIONAL DEVELOPMENT

6.1. CAPACITY BUILDING TO ACF LEGAL SERVICE TEAM

The Legal Service Department (LSD) staff of the Arbitration Council Foundation (ACF) plays an important role in supporting the Arbitration Council (AC) in resolving labour disputes effectively.

Having seen the necessity of LSD's role in ensuring the core values of the AC, ACF continues to strengthen and develop the capacity of the LSD staff through its engagement of overseas experts to share their experiences on specific topics and to address the current circumstance and need.

On 8 and 19 of December 2022, 5 LSD staff (including 4 women) attended an intensive 2-day training on 3 topics, including: 1) Legal issues, 2) Award drafting, and 3) Rule of evidence with Mrs. Susan Brown (an American arbitrator with many years' experience solving labour disputes). This training was organised and shaped to be more a discussion of the 3 topics – reflecting on real case studies extracted from Cambodian arbitral awards with consideration of the different context and implementation of labour dispute resolution in the United States.

Through this training, all LSD staff increased their knowledge of how to receive and process a comprehensive fact finding, how to review evidence, and how to draft arbitral awards. Participants purposefully kept in mind that the practice of labour dispute resolution in the United States is handled based on contract or collective bargaining agreement (CBA), whilst labour disputes in Cambodia are resolved based on Labour Law, internal regulation, CBA, employment contracts, and other regulations.



6.2. IN-HOUSE TRAINING AND MENTORING PROGRAM (ITMP)

The In-house Training and Mentoring Program (ITMP) continues to be provided on a regular basis to new ACF staff members. This year, 8 ACF staff (including 5 women) from the Training and Communication Department and Legal Services Department received Training of Trainer (ToT) in order to teach the ACF Workplace Dispute Prevention and Resolution Program (DPRP) which consists of sub-topics covering employment relations, workplace cooperation, communication for negotiation, and conflict management at workplace.



6.3. PROFESSIONAL EDUCATION AND EXCHANGE PROGRAM BY THE NATIONAL ACADEMY OF ARBITRATORS

ACF collaborated with the National Academy of Arbitrators (NAA) (a group of experts in labour mediation and arbitration from United States and Canada) to organize a professional education and exchange program for 27 AC/F and SAC team members (15 of whom are women). The session covered:

- Employment discrimination in the United States
- Analysis of harassment cases by Arbitrators in the United States
- Evidence in Arbitration
- Statutes of Ontario, Canada dealing with workplace harassment
- Evidence at Arbitration, before, during and after the hearing: the Canadian perspective
- Confidentiality, privacy and personal data: the Canadian approach

From this professional education and exchange program, the Arbitrators, AC/F and SAC team indicated increased capability and improved knowledge and skills through the experiences shared by the NAA members.



6.4. BFC-ACF KNOWLEDGE SHARING WORKSHOP ON COLLECTIVE BARGAINING AGREEMENTS (CBA)



On 22 August 2022, the Arbitration Council Foundation (ACF), in cooperation with Better Factories Cambodia of the International Labor Organization (BFC-ILO), held a BFC-ACF knowledge sharing workshop on Collective Bargaining Agreements (CBA) involving all ACF staff and some technical staff of BFC-ILO.

In this workshop, the key components of collective bargaining were discussed including: the general structure of the CBA, the scope and types of CBA, legal aspects of CBA under international convention as well as national law and regulations, and the benefits of CBA. Through this knowledge sharing workshop, ACF staff gained a better understanding of, 1) provisions of the ILO collective bargaining conventions, and provisions pertaining to CBA under the Cambodian Law, Trade Union Law, and related regulations, 2) key legal and technical elements around which a CBA is formally structured, and finally, 3) key stakeholders to the CBA process (assessor advisors, enterprise advisors, and trainers) were equipped with a better understanding of CBA so they will be able to more objectively assess for validity and compliance.

6.5. SHARING SESSION ON THE NATIONAL LABOUR RELATIONS COMMISSION OF REPUBLIC OF KOREA

In June 2022, Mr. Dong Eung Lee, Senior Employer Specialist of DWT-BKK ILO led a sharing session about the National Labour Relations Commission (NLRC) of the Republic of Korea with Arbitrators, ACF, and SAC staff. The session discussed Korea's arbitration system to discover whether aspects of the Korean model would be useful/valuable or not in Cambodia. From the sharing session, Arbitrators, ACF, and SAC staff learned a lot about the labour relations commission, NLRC chairperson and the Secretariat, major functions of NLRC, and the role of committees in the NLRC (including the adjudication committee, and the discrimination committee).

Of special interest was how the NLRC has handled individual and collective disputes and how the NLRC, a national institutional model that exists under the Ministry of Employment and Labour, stays independent and efficient.



7. GENDER EQUALITY MAINSTREAMING

In 2022, one strategic focus was to further progress gender equality (GE) work in ACF; whereby the AC/F becomes an organization that throughout all its' operations embraces gender equality and equity. Thus, ACF implemented its plan to build ACF staff and SAC team capacity to better understand the concept of gender equality, and improve their behavior toward gender equality in the workplace and to join the international actions to promote gender equality in the workplace.

7.1. GENDER EQUALITY MAINSTREAMING TRAINING AND SHARING SESSIONS

Pertaining to Gender Equality, the ACF collaborated with the ILO - Better Factories Cambodia (BFC) - to conduct gender mainstreaming training for 18 staff of the ACF and SAC (including 11 women) by a BFC Gender Specialist. ACF also organized three internal sharing sessions with staff and the secretariat team as part of the organizational learning, dialogue, and reflection in order to improve the effectiveness of gender equality promotion, perception and behavior changes toward gender equality, empowering women to participate and unleash their potential in all activities, as well as creating a gender friendly working environment in the AC/F / SAC workplace.



7.2. "16 DAYS" CAMPAIGN AGAINST GENDER BASED VIOLENCE (GBV)

In line with the international movement '16 Days Campaign Against Gender-Based Violence', ACF joined this annual campaign which ran from 25th November to 10th December in 2022 to eliminate all forms of gender-based violence across all sectors, particularly the labour sector at the national, regional, and international levels.

A group photo of ACF staff & the SAC of the Arbitration Council team, with a sign of promoting gender equality was posted on ACF's social media platforms including the Facebook Page and Twitter with the theme of "Good Workplace, Women are empowered".




INCOME AND EXPENDITURE REPORT JANUARY TO DECEMBER 2022


DESCRIPTION	2022	2021
INCOME		
Donor Fund Support/Grant Income	\$ 1,947,085	\$ 561,608
Other Income	\$ 35,547	\$ 23,425
TOTAL INCOME	\$ 1,982,632	\$ 585,033
EXPENSES		
Labour Dispute Resolution	\$ 293,869	\$ 300,134
Partnership and Stakeholder Outreach and Training	\$ 208,958	\$ 192,123
Institutional Integrity and Sustainability	\$ 101,774	\$ 74,828
Gender Equality	\$ 719	\$ 191
TOTAL EXPENSE	\$ 605,319	\$ 567,276
DEFICIT/SURPLUS	\$ 1,377,313	\$ 17,757
FUND ACCOUNT as of 01 January 2022	\$ 83,383	\$ 65,626
Way Forward	\$ 1,460,696	\$ 83,383

STATEMENT OF FINANCIAL POSITION AS OF DECEMBER 31, 2022

	2022 (US\$)	2021 (US\$)
ASSETS		
Cash on Hand	\$ 1,947,085	\$ 561,608
Cash in Bank	\$ 1,451,341	\$ 1,178,315
Security Deposit	\$ 8,859	\$ 8,859
	\$ 1,460,696	\$ 1,188,440
LIABILITIES		
Withholding Tax Payables		\$ 3,402
Cash in Bank		\$ 2,641
Security Deposit		\$ 185
		\$ 6,228
TOTAL NET ASSETS	\$ 1,460,696	\$ 1,182,213
FUND BALANCE		
Swedish International Development Co-operation Agency (SIDA)	\$ 534,201	\$ 448,655
Solidarity Center (SC)	\$ 43,205	\$ 21,419
Levi Strauss Foundation (LEVI)	\$ 89,956	\$ 121,336
Gap Inc. (GAP)	\$ 12,477	\$ 15,062
Royal Government of Cambodia (Ministry of Labour and Vocational Training (RGC)	\$ 564,723	\$ 422,448
H&M Hennes & Mauritz AB (Group	\$ 73,815	\$ 51,389
VF Asia Sourcing Limited	\$ 24,799	\$ 18,521
Reserve Fund	\$ 117,520	\$ 83,383
TOTAL FUND BALANCE	\$ 1,460,696	\$ 1,182,213

Income and Expense

	2022	2021
INCOME	\$1,982,632	\$ 585,033

	2022	2021
EXPENSE	\$605,319	\$ 567,276



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Arbitration Council Foundation (ACF)



លោក ម៉ែង ឌីមិត ជាមេត្រីបតិបត្តិមូលនិធិគម្របពិភាក្សាអន្តរជាតិរបស់មណ្ឌលសេដ្ឋកិច្ចអាស៊ី ឆ្នាំ២០១៦។
Mr. Men Himmit, ACF's Executive Director, meeting with Trade Unions in 2016.



ប្រតិភូគណៈគម្របពិភាក្សាមេម៉ាយអន្តរជាតិមូលនិធិគម្របពិភាក្សាអន្តរជាតិរបស់មណ្ឌលសេដ្ឋកិច្ចអាស៊ី ជួបជាមួយលោកនាយកក្រសួងយុត្តិធម៌ ឆ្នាំ២០១៦។
The delegation group of the Arbitration Council Foundation's International Advisory Board meeting with the Minister of Justice, 2016



សវនាការទៅក្នុងសវនាការដំបូងរបស់មណ្ឌលសេដ្ឋកិច្ចអាស៊ី ឆ្នាំ២០១២
The Arbitration Council Mobile Hearing in Siem Reap in 2012

អាជ្ញាធរដំបូងរបស់មណ្ឌលសេដ្ឋកិច្ចអាស៊ី (FULL BENCH)
អាជ្ញាធរដំបូងរបស់មណ្ឌលសេដ្ឋកិច្ចអាស៊ី គឺជាសវនាការដំបូងរបស់មណ្ឌលសេដ្ឋកិច្ចអាស៊ី ដែលមានសមាជិកៗចំនួនប្រាំបីនាក់ ត្រូវបានជ្រើសរើសឡើងដោយមណ្ឌលសេដ្ឋកិច្ចអាស៊ី ដើម្បីផ្តល់នូវការសវនាការ និងការសម្រេចចិត្តចុងក្រោយបំផុត ទាក់ទងនឹងការសម្រេចចិត្តរបស់មណ្ឌលសេដ្ឋកិច្ចអាស៊ី ដែលមានភាពប្រក្រតី និងមានសុពលភាពសេចក្តីសម្រេចរបស់មណ្ឌលសេដ្ឋកិច្ចអាស៊ី។

THE FULL BENCH OF THE ARBITRATION COUNCIL
The Council's Full Bench comprises of nine elected members of the Council. It is not a body of appeals. Its role is to provide a binding and final resolution to the Council when there is an inconsistency in its decisions.



កិច្ចបញ្ជាក់ស្តីពីការផ្តល់ជំនួយដល់មូលនិធិគម្របពិភាក្សាអន្តរជាតិរបស់មណ្ឌលសេដ្ឋកិច្ចអាស៊ី ឆ្នាំ២០១៤
Agreement between Sweden and the Arbitration Council Foundation on Core Support in 2014



កិច្ចបញ្ជាក់ស្តីពីការផ្តល់ជំនួយដល់មូលនិធិគម្របពិភាក្សាអន្តរជាតិរបស់មណ្ឌលសេដ្ឋកិច្ចអាស៊ី និងគណៈកម្មាធិការយុត្តិធម៌ការងារឆ្នាំ២០១៥
The signing ceremony on memorandum of understanding (MoU) between the Arbitration Council and the Fair Work Commission in 2015



វគ្គបណ្តុះបណ្តាលទៅដល់ស្ថាប័នផ្សេងៗ រួមទាំងសិក្ខាសាលាសេដ្ឋកិច្ចអាស៊ីស្តីពី ការដោះស្រាយវិវាទ និងដំណើរការគម្របពិភាក្សាអន្តរជាតិ។
Stakeholders Training including university seminar on "Labour Dispute Resolutions and the Arbitration Council Process"





ទស្សនកិច្ចសិក្សារបស់ក្រុមប្រឹក្សាពាក់ព័ន្ធកម្ពុជាទៅគណៈកម្មាធិការកំរិតនៃក្រុមការងារការងារស្មើគ្នានៅឆ្នាំ២០០៧
Arbitrators visited the Fair Work Commission of Australia in 2007.



ទស្សនកិច្ចសិក្សារបស់ក្រុមប្រឹក្សាពាក់ព័ន្ធកម្ពុជាទៅប្រទេសហ្វីលីពីន ឆ្នាំ២០០៧
Study trip of Cambodian Arbitrators to the Philippines in 2007



ទស្សនកិច្ចសិក្សារបស់ក្រុមប្រឹក្សាពាក់ព័ន្ធកម្ពុជាទៅសហរដ្ឋអាមេរិក ឆ្នាំ២០១០
Study trip of Cambodian Labour Arbitrators to the USA in 2010



ឯកឧត្តមរដ្ឋមន្ត្រីក្រសួងការងារនិងគណៈប្រតិភូក្រសួង និងក្រុមប្រឹក្សាពាក់ព័ន្ធកម្ពុជាធ្វើទស្សនកិច្ចសិក្សាទៅគណៈកម្មាធិការការងារស្មើគ្នានៅប្រទេសអូស្ត្រាលី ឆ្នាំ២០១៤។
Minister of Labour led the study trip of the Ministry of Labour and the Arbitration Council to Fair Work Commission Australia in 2014.



INTERNATIONAL COMMUNITIES VISIT THE ARBITRATION COUNCIL
The Arbitration Council and the Foundation has hosted various delegations: university students and professors, and Arbitrators from USA, Myanmar, China, Thailand, Vietnam, Singapore and Bangladesh.
ទស្សនកិច្ចសិក្សារបស់សិស្សនិងគ្រូបង្រៀនចិនមកទស្សនកិច្ចសិក្សាពាក់ព័ន្ធកម្ពុជា
ក្រុមប្រឹក្សាពាក់ព័ន្ធកម្ពុជា និងមជ្ឈមណ្ឌលសិក្សាស្រាវជ្រាវស្រុកកម្ពុជា បានទទួលទស្សនកិច្ចសិក្សាពីសិស្សនិងគ្រូបង្រៀនចិនមកទស្សនកិច្ចសិក្សាស្រាវជ្រាវស្រុកកម្ពុជា និងមជ្ឈមណ្ឌលសិក្សាស្រាវជ្រាវស្រុកកម្ពុជា និងមជ្ឈមណ្ឌលសិក្សាស្រាវជ្រាវស្រុកកម្ពុជា។

គណៈប្រតិភូប្រទេសមីយ៉ាន់ម៉ាទស្សនកិច្ចសិក្សាពាក់ព័ន្ធកម្ពុជា ឆ្នាំ២០១៦។
Myanmar delegation visited the Arbitration Council in 2016.



គណៈប្រតិភូប្រទេសមីយ៉ាន់ម៉ាទស្សនកិច្ចសិក្សាពាក់ព័ន្ធកម្ពុជា ឆ្នាំ២០១៦។
Myanmar delegation visited the Secretariat of the Arbitration Council in 2016.



ប្រតិភូប្រទេសសិង្ហបុរី (លើស្តាំ) ប្រតិភូប្រទេសវៀតណាម និង ប្រតិភូប្រទេសថៃ មកទស្សនកិច្ចសិក្សាពាក់ព័ន្ធកម្ពុជា។
(Top) Singapore, (left) Vietnamese and (right) Thai delegation visited the Arbitration Council.



សមាជិកក្រុមប្រឹក្សាពាក់ព័ន្ធកម្ពុជា និងគណៈប្រតិភូអូស្ត្រាលី ចូលរួមសន្និសីទទំនាក់ទំនងឆ្នាំ២០១៧។
The Council Arbitrators and Australian delegates attended industrial relations conference in 2017.