

LATEST LABOR LAW UPDATES

EuroCham Cambodia Breakfast Talk

Raffles Hotel Le Royal

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SOK Lor: Managing Director, SOK XING & HWANG

AGENDA

- 1. Introduction**
- 2. Recent Regulations, Impacts on Businesses**
- 3. Regulations Being Planned**
- 4. How Businesses Can Engage in Labor Law Making Process**
- 5. Recommendations**



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1. INTRODUCTION



Introduction

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Dynamic development of labor and employment law and policy over recent years:

Why?

- Cambodia's continued commitments to international labor standards
- Political economy
- Drive of the garment sector
- Strength of industrial relations actors (employers, unions, government)

What We See Today

- Rapid growth in level of minimum wages for the garment sector over recent years
- Increasing stability of industrial relations
- Adoption of a number of labor and social regulations coupled with greater enforcement, causing mixed impacts on businesses



2. RECENT REGULATIONS

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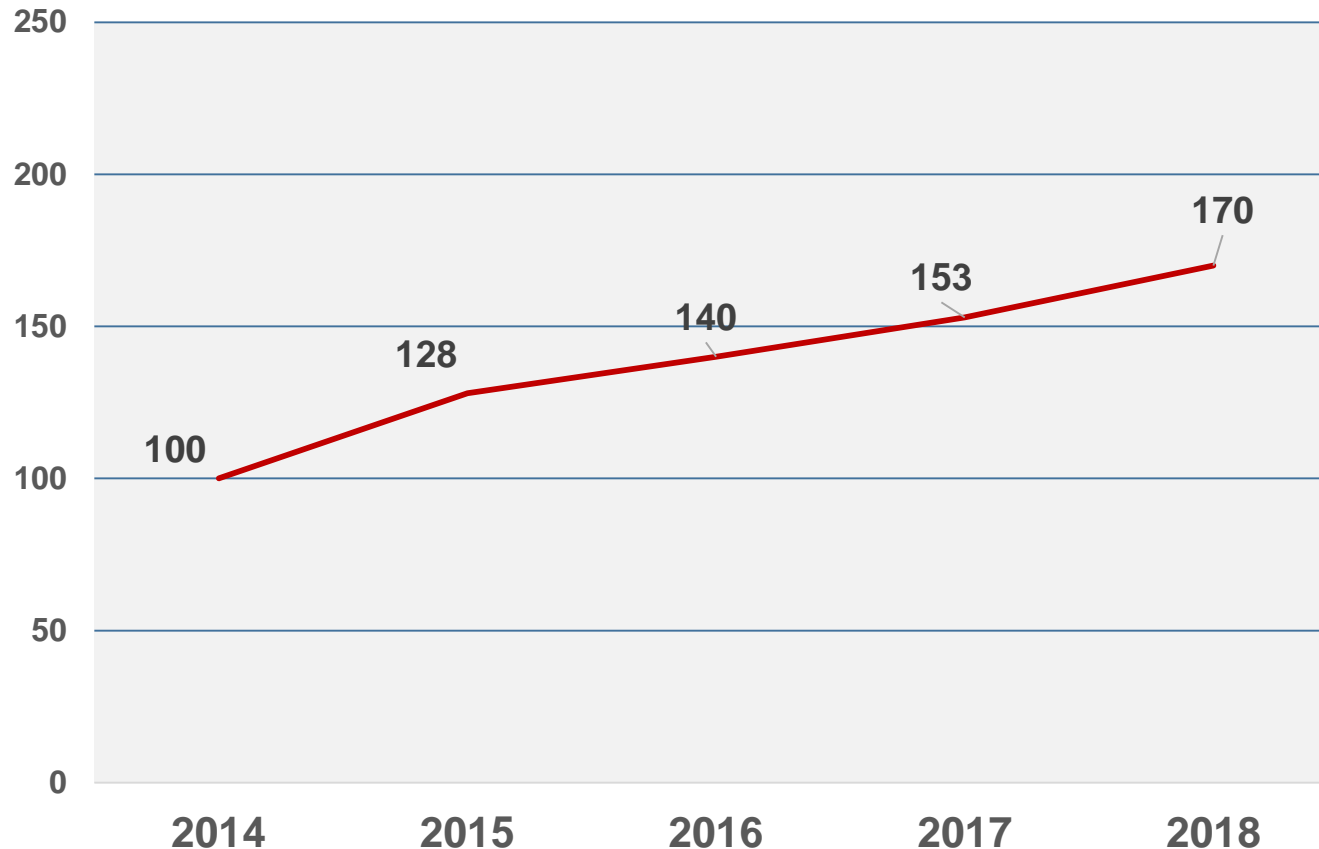
National Social Security Schemes

Schemes Presently In Force	Rate of Contribution	Scope of Application
Employment Injury Scheme	Rate of Contribution by Employer: <ul style="list-style-type: none"> • 0.8% of 'average monthly wage' of an employee (up to a ceiling of approximately US\$2) 	Enterprises hiring one or more employees (Prakas of Ministry of Labor No. 448, dated 10 DEC 2017) <ul style="list-style-type: none"> • A shift from a minimum of 8 employees
Health Care Scheme	Rate of Contribution: <ul style="list-style-type: none"> • Presently, equal contribution: 1.3% by the employer, and 1.3% by the employee • Starting on 01 January 2018: 1.3% + 1.3% of 'average monthly wage' of an employee (up to a ceiling of approximately US\$6.5). Sub-Decree No. 140, dated 26 AUG 2017 	



Garment Sector's Minimum Wage

Minimum Wage in US\$ for the Garment Sector



- US\$170 for 2018 was reached by a first-ever consensus among tripartite negotiators, suggesting stable industrial relations climate ahead for businesses.
- Maturing habit of relevant actors to engage in minimum wage negotiation, coupled with predictable social and economic criteria for minimum wage fixing.
- Wage growth vs. productivity growth



Trade Union Law (TUL)

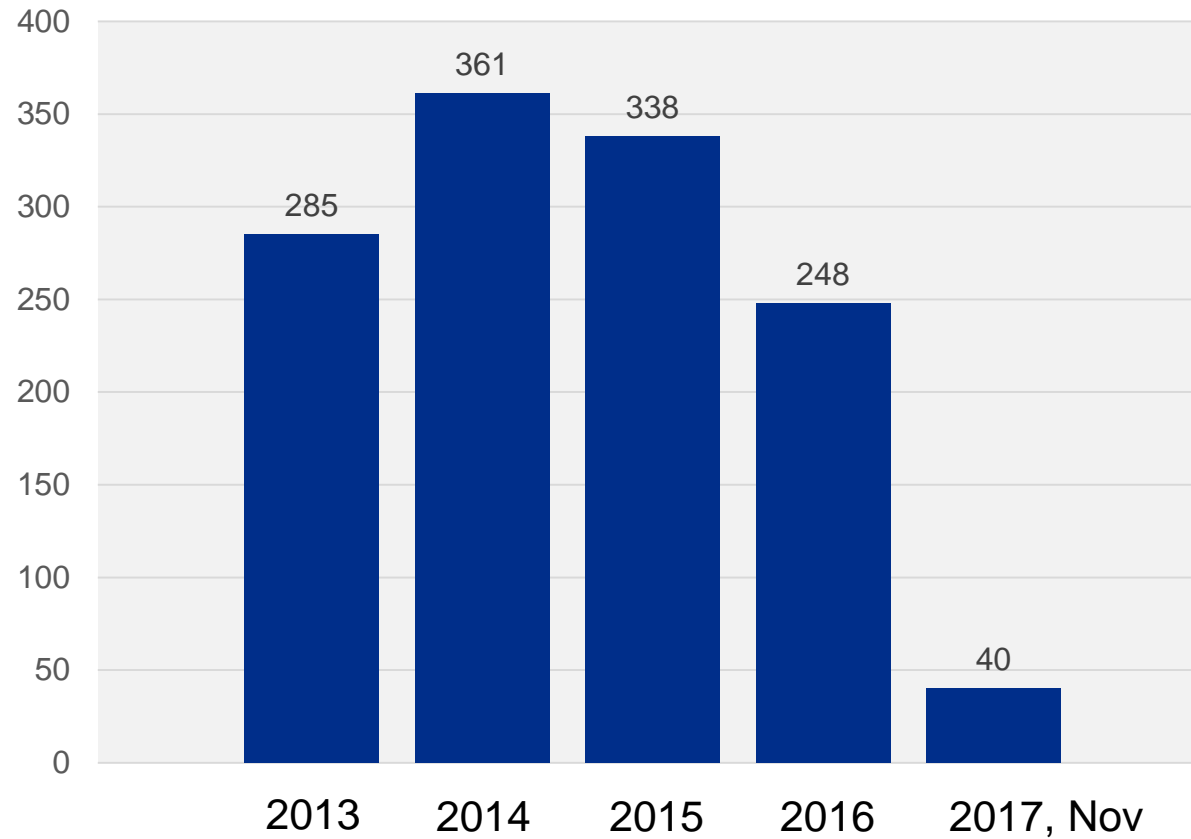
- TUL was adopted in 2016, with an aim to advance the stability of industrial relations through better regulation of unions and employer organizations.
- Mixed impacts on businesses; yet, some key provisions tend to yield positive effects.

Key Provisions	Impacts
<p>Article 54 of TUL relating to Most Representative Status at the Level of Enterprise:</p> <p><i>“... For the purpose of ... collective labor dispute resolution, the most representative status union has the exclusive rights to negotiate...”</i></p> <p>If a union does not have most representative status, a Bargaining Council of employees is required to negotiate on the disputes.</p>	<ul style="list-style-type: none">• Increasing stability of industrial relations, particularly in the garment sector, through a decline in labor disputes recorded and decreasing strike activities.▪ Unlike pre-TUL period, external parties face the challenge in meeting legal qualifications to bring claims against the enterprise before dispute resolution bodies.



Trade Union Law (TUL), Impacts

Cases Registered at Arbitration Council



- Ministry of Labor has reported similar decline in registration of collective labor disputes.



3. REGULATIONS BEING PLANNED

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Draft Law on Minimum Wage

- **Purpose:** establish a framework for minimum wage fixing for economic sectors beyond the garment industry.
- Two rounds of public consultation thus far.
- Ministry of Labor aims to send the draft law to Council of Ministers by the end of 2017



Draft Law on Minimum Wage

Key Provisions

- Set social and economic criteria for minimum wage fixing.
- Establish a three-party National Wage Council to take charge of minimum wage fixing, and determination of new economic sectors to be covered by minimum wage.

Provisions Recently Rescinded

- Administrative of prior approval from the government for minimum wage research

Potential Impacts

- Business in new sectors determined by National Wage Council to be covered by minimum wage.
- Level of garment sector's minimum wage will be the floor?



Draft Law on Procedures for Labor Dispute Adjudication

Aim to further enhance the effectiveness of labor dispute resolution:

- Intended to grant the Arbitration Council additional powers: (1) individual labor dispute, (2) internal appeal mechanism within the Arbitration Council
- Intended to provide a detailed structure for each step of dispute resolution (*from enterprise -> Ministry -> Arbitration Council -> Court.*)
- Intended to impose heavy penalty for failure to follow each step in the structure of dispute resolution

Status: following policy advocacy led by CAMFEBA, the draft has been **rescinded** by Ministry of Labor recently, thus eliminating the potentially adverse impacts on businesses.



Also in the Pipeline

- **Labor Law Provisions on ‘Employment Contracts’**
 - Fixed Duration Contract – Severance Pay
 - Undetermined Duration Contract
 - **Timing**: Could be soon, yet difficult to determine.
- **New scheme of national social security:**
 - Pension scheme: 2019 as announced by Prime Minister
- **Amendments to various provisions of Labor Law 1997**, as identified in the Industrial Development Policy 2015 – 2025
 - Presently, under internal review by Ministry of Labor



4. LABOR LAW MAKING MECHANISMS

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Government Private Sector Forum

Government's 8th Working Group on Industrial Relations

- Co-chaired by Minister of Labor and Vocational Training and Vice-President of CAMFEBA. Comprised of representatives from various government agencies and the private sector employers
- CAMFEBA serves as Secretariat
- Regular meetings to bring solutions to labor and employment issues raised by the private sector



Labor Advisory Committee

- Three-party mechanism established under the Labor Law
- Comprised of representatives of Government, employers, and trade unions. Chaired by Minister of Labor and Vocational Training, CAMFEBA representative is Vice-Chairperson.
- Meet regularly, at least twice a year
- Mandate: study labor problems and formulate recommendations and decisions. In practice, the LAC is most active on issues concerning minimum wage.

Ministry of Labor and Vocational Training

- Other Ad Hoc Mechanisms, their significance



5. RECOMMENDATIONS

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- ***Recognized as progressive employer***
- ***Commitment to nurturing staff and talent***
- ***Strong workplace governance, fair treatment of employees***
- ***Stable, productive employment***
- ***Proven dedication to corporate social responsibility and social sustainability***
- ***Guard against disruptions and reputational risks***





➤ **COMPLY WITH LAWS AND REGULATIONS**

➤ **ESTABLISH, STRENGTHEN WORKPLACE MANAGEMENT SYSTEMS AND TOOLS**

- Internal Work Rules, internal regulations can be updated to reflect changes in law, HR practices, technological developments, etc.
- Workplace cooperation/consultation mechanisms
- Performance management tools, grievance mechanisms
- Systematic documentation, record keeping

➤ **MANAGE RELATIONS WITH EMPLOYEES, TRADE UNIONS**





➤ **STRENGTHEN DISPUTE PREVENTION AND RESOLUTION**

- Risk controls, monitoring systems
- Systemic dispute settlement through documentation, negotiation, mediation and arbitration

➤ **OBTAIN PROFESSIONAL ADVICE AND SUPPORT**

- CAMFEBA or Legal and industrial relations professionals for strategic legal and labor relations advice and representation



ADVOCACY ON LABOR LAW AND POLICY

- share your voice, concerns, and challenges directly with CAMFEBA and/or EuroCham for coordinated advocacy positions through various law-making mechanisms

FORTHCOMING THREE-PARTY NATIONAL WAGE COUNCIL

- Participate in it or endorse your representative(s) to participate in it in order to represent your voice.



For more information, please contact:

Mr. SOK Lor:

- Managing Director, **SOK XING & HWANG**

E: lor.sok@sxhlaw.com – W: www.sxhlaw.com