



WORKER RIGHTS CONSORTIUM

**WORKER RIGHTS CONSORTIUM ASSESSMENT
re DARONG PRINTING AND EMBROIDERY (CAMBODIA)
FINDINGS, RECOMMENDATIONS, AND STATUS REPORT
September 18, 2009**

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A. Introduction

This report outlines the WRC's findings and recommendations concerning labor practices at the Darong Printing and Embroidery factory (Darong) in Cambodia. The factory employs roughly 360 employees who, as the company's name suggests, provide embellishment services for apparel manufactured in other facilities.

Darong is located in the district of Ang Snuol, an area on the western edge of Phnom Penh, and is part of Kandal Province, which is comprised of the districts directly surrounding the capital. The WRC initiated its investigation of working conditions at Darong on September 15, 2008, in response to a complaint received from employees. The factory had been disclosed on multiple occasions in 2008 as a supplier of collegiate licensed apparel for Reebok's "Heisman by Reebok" brand and reportedly has among its current customers Columbia Sportswear, VF, and Gap.

The WRC's investigative work was carried out by WRC regional and country representatives, and included in-depth interviews with production workers, supervisors, and managers, as well as a review of substantial relevant documentation and multiple physical inspections of the factory premises.

1. Areas of Observed Compliance

Pursuant to the WRC's investigative protocols, this report should not be taken to state conclusions – whether findings of compliance or of non-compliance – in areas not discussed explicitly in the report. However, the WRC would note that, in three important areas, which were not subjects of this investigation, Darong Printing and Embroidery complies with university codes of conduct and/or maintains labor practices that are significantly superior to the norm among Cambodian garment factories. These areas are as follows:

a. Wages

As the WRC has previously reported, it is commonly understood that the garment industry in Cambodia fails to provide workers with a living wage.¹ Despite significant inflation, the legal minimum wage, which is, in practice, the industry standard, has increased only moderately in the last decade, and an article published in the past year reported that some workers had taken to foraging to supplement their nutrition.² For this reason, provision of adequate wages is a pressing issue for garment workers in Cambodia, as it is in other apparel-exporting developing countries. The WRC model code of conduct recognizes the necessity of workers receiving a living wage.³

¹ See Sam Rith, "As Prices Rise, Workers Go Foraging," *Phnom Penh Post* (Oct. 22, 2008), available at: <http://khmernz.blogspot.com/2008/10/as-prices-rise-workers-go-foraging.html>.

² See, id.

³ See, WRC, *Model Code of Conduct* (2000), available at: <http://www.workersrights.org/university/coc.asp>.

Under Cambodian labor law, workers on night shifts had previously received a wage of twice (200%) the factory's regular rate of pay. This law was changed in July 2007 to permit factories to pay night shift workers a reduced premium of only 130% of the regular rate.⁴ To its credit, however, Darong has continued to pay workers on the night shift 200% of the regular rate, despite the fact that the labor law now permits a lower wage. Because, once they have completed probation, workers rotate between shifts, all production employees benefit from Darong's policy of paying this premium.

b. Individual Employment Contracts

As the WRC has previously discussed, over the past several years, Cambodian garment factories increasingly have adopted the practice of employing workers on short-term contract (known, under Cambodian labor law, as "Fixed Duration Contracts" ("FDCs")).⁵ This practice has several deleterious implications for workers, most significantly, that it: (a) prevents workers from attaining the seniority necessary to qualify for important statutory benefits, including maternity pay; and (b) increases the risk for worker representatives of discriminatory termination, as management may simply opt not to renew their contracts. Most Cambodian garment factories now hire workers only on FDCs and some have involuntarily converted their workforces to such arrangements. Darong, by contrast, employs the majority of its workers on the previously more common, "Undetermined Duration Contracts," thus offering workers greater job security and assuring their access to statutory benefits. The WRC commends the factory for this practice.

c. Freedom of Association and Collective Bargaining

Although, Cambodia has made substantial progress in the last decade in promoting respect for freedom of association and collective bargaining, unlawful termination of worker representatives is not uncommon and collective bargaining agreements between factory managements and unions representing garment workers remain rare.⁶ To its credit, Darong Printing and Embroidery has recognized and engaged in contract negotiations with the union representing its employees, and on June 27, 2009 management and the union signed the factory's first collective bargaining agreement.

⁴ Cambodian Labor Code, Arts. 139, 144

⁵ See, WRC, *Temporary Employment Contracts in Cambodia* (memo to WRC affiliates) (May 12, 2009), <http://www.workersrights.org/university/memo/051209.html>.

⁶ See, Int'l Trade Union Confederation, *2007 Annual Survey of Violations of Trade Union Rights* (2008), <http://survey07.ituc-csi.org/getcountry.php?IDCountry=KHM&IDLang=EN>.

2. Areas of Documented Noncompliance

On the basis of the evidence gathered, the WRC documented the factory's noncompliance with Cambodian law, international labor standards, and, thereby, university and college codes of conduct in several areas, including:

- a. Occupational Safety and Health,
- b. Grievance Procedures, and
- c. Minimum Wage.

The WRC's findings in these areas are outlined in detail in this report.

Where the WRC found instances of noncompliance, we provided Darong with a detailed outline of our findings and an accompanying set of recommendations for corrective action. The WRC is pleased to report that Darong responded positively by agreeing to implement these improvements.

However, due to a loss of orders related to the global financial crisis, the factory was required to close from February to April 2009 and implementation of many of the remedial measures only began thereafter.

The WRC is pleased to report that Darong's implementation of the WRC's recommendations have resulted in substantial improvements in working conditions. The improvements include numerous improvements in health and safety conditions, establishment of a joint worker-management occupational health and safety committee, cessation of underpayment of probationary workers, and a commitment to compensate the latter for back wages owed. This progress is attributable, in great part, to good faith efforts on the part of management at the facility to work with the WRC to implement changes. The WRC will continue its engagement with Darong to ensure that the progress made thus far is sustained and that any outstanding issues are fully addressed.

B. Methodology

1. Sources of Evidence

The findings outlined in this memorandum are based on the following sources of evidence:

- Interviews with twenty-five Darong workers. Twenty-three of these workers were interviewed offsite in locations agreeable to workers. Two of the workers were interviewed onsite.
- Interviews with members of Darong management, including the company's Social Compliance Officer and Personnel Manager.

- An onsite review of relevant documentation, including internal work rules and company policies, records of treatment provided in the company health clinic, and material safety data sheets for chemicals used in the factory.
- Physical inspections of the factory concerning occupational health and safety issues.
- A review of applicable Cambodian labor and employment laws by an expert in the field.

Before proceeding to a review of our findings, we provide here some brief comments on the sources of evidence relied upon by the WRC.

a. Offsite Worker Interviews

In-depth worker interviews are a critical element of the WRC assessment process. The WRC's methodology recognizes the central importance, in any labor rights fact-finding effort, of workers having the security to speak candidly about their conditions of employment. In order to achieve this degree of security and confidence among workers in the WRC's investigative process, the WRC's protocols require that:

- 1) Interviews are conducted offsite, without the knowledge of factory management, by individuals with no ties to the factory or its customers;
- 2) Interviewers keep in confidence the names of workers who participate in interviews;
- 3) Whenever possible, interviews are arranged through, and conducted with the involvement of, local persons or entities in which workers have trust.

In accordance with these protocols, the WRC conducted in-depth interviews with a representative sample of twenty-five current Darong workers. The WRC was able to gather substantial detailed information through this process, and workers reported labor rights violations in the areas of occupational health and safety, grievance procedures, and wages and hours.

b. Factory Inspections

The WRC conducted its inspections of Darong's factory on September 18, 2008, February 2, 2009, May 20, 2009 and August 13, 2009. Information regarding violations of codes of conduct at the factory that had been provided by workers in the offsite interviews was corroborated subsequently through the factory visit, and the accompanying review of factory records.

C. Findings, Recommendations, and Current Status

The following sections review, as applicable for each area of code compliance, the WRC's findings and recommendations, Darong's response, and the status of remedial measures taken by the company as verified by the WRC. Except where otherwise indicated, for each area of code compliance:

- The initial findings and recommendations section is based on investigative work performed by the WRC between September 1 and September 25, 2008 and communicated to Darong in a memorandum sent to the company on October 1, 2008.
- An onsite inspection of Darong's factory was conducted on September 18, 2008.
- Current Status section is based on communications from Darong to the WRC on December 13, 2008, February 2, 2009, May 6, 2009 and August 13, 2009, and the WRC's verification of the company's remediation through an onsite visit to Darong on February 2, 2009 and further investigative work in May and August 2009.

1. Occupational Safety and Health

a. Excessive Heat and Exposure to Chemical Vapors

Findings

The WRC identified significant code of conduct violations related to occupational safety and health, in particular, excessive heat and exposure to harmful chemical vapors used in the printing process. In addition to complaints from employees, the WRC gathered both documentary and physical evidence of this problem.

A review of records from the factory's onsite health clinic revealed that from May to August 2008, on average, 216 of the 414 workers then employed at the plant sought treatment in the clinic each month, with the majority complaining of headaches, dizziness, stomach upset, and flu-like symptoms. While the WRC did not conduct a medical analysis of each case, these symptoms are frequently associated with the exposure to chemicals commonly used in the screen-printing process.⁷

Furthermore, despite the fact that production levels were below normal on the day of the WRC's inspection on September 18, 2008, chemical vapors were readily detectable in factory and heat levels were not consistent with the requirements of Cambodian Labor Law, which mandates that temperatures in the workplace be kept to a reasonable level.⁸

Recommendations

While, as outlined below, the WRC provided recommendations to address these specific problems, the WRC also strongly urged Darong Printing and Embroidery to take a more

⁷ See, e.g., Sanford Horstman, et al, *Solvent Exposures in Screenprinting Shops*, 36 JI. of Env'l Science and Health 1957-73 (2001).

⁸ See, Prakas 125/01, 147/02.

systemic approach involving the participation of its own employees. The WRC recommended that Darong establish a joint occupational safety and health committee comprised of members of management and worker representatives from each of the plant's departments. While not legally required in Cambodia, as they are in some countries, such committees are a recognized best practice in addressing workplace safety and health issues because they provide a forum for identifying problems, proposing solutions, monitoring implementation, and ensuring sustainable compliance.⁹

Given that a representative labor union exists at the plant, the WRC recommended that the committee include management and worker representatives from each of the facility's production departments. Involvement of the trade union in the committee is in accordance with the general principle in the Cambodian Labor Law that union representatives have, among their duties, the responsibility to ensure enforcement of health and safety regulations and to suggest improvements in safety, health and working conditions.¹⁰

The WRC recommended that the committee should monitor safety and health issues in the plant on an ongoing basis to identify potential hazards, develop and implement effective measures to address them, and educate workers as to how to perform their work safely. The WRC suggested that the committee hold regular meetings with recorded minutes, and, where necessary, should consult outside technical experts concerning occupational health and safety issues.

Current Status

After discussing with the WRC the potential benefits of establishing an occupational safety and health committee, Darong's management agreed to establish the committee in February 2009. After consultation with the union representing its workers, the decision was reached to hold a direct election at the factory for the committee.

The election was held on February 23, 2009, and the WRC was provided with the results; however, the committee did not meet until June 1, 2009, due to production at the plant being suspended from March through May 2009 on account of a lack of orders from customers.

After production at the factory resumed, the committee held its first two meetings on June 1 and August 3, 2009, minutes from which were provided to the WRC. Darong indicates that going forward the committee will continue to meet every two months and will record minutes in Khmer and English.

Management also has committed to provide train-the-trainer instruction to committee members in safety and health issues and, in particular, the proper use of personal protective equipment (PPE). This training is scheduled for October and November 2009.

To ensure that the committee achieves its potential, the WRC will continue to monitor the progress of the OHS committee and may issue further recommendations.

⁹ See, ILO, *Using Health and Safety Committees at Work*, <http://actrav.ilo.org/actrav-english/telearn/osh/com/using.htm>.

¹⁰ Cambodian Labor Law, Art. 284.

b. Failure to Post Material Safety Data Sheets and Train Workers in Safe Handling of Chemicals

Findings

In screen-printing operations, where chemicals with the potential to cause hazardous health effects are routinely used, it is essential, also, that management provide workers with both safety information regarding the chemicals themselves and training in their proper handling. The WRC found that Darong had failed to thoroughly fulfill these responsibilities.

For example, while the Material Safety Data Sheets (MSDS) for two frequently used chemicals were posted in Khmer, the WRC's inspection on September 18, 2008 found that sheets for several other less frequently used chemicals were not posted in either the storage or mixing areas. In its follow-up inspection in February 2009 the WRC also found that Darong did not possess an MSDS for another chemical used as a fixer.

Similarly, while the factory held a training session in late 2007 for all employees in the mixing section on handling of hazardous chemicals, no training had been provided since then. Of particular concern is the fact that no training has been provided to employees in the printing division even though these workers routinely apply chemicals as part of their duties. Such trainings are recommended as a best practice by the ILO Better Factories Cambodia program.¹¹

Recommendations

The WRC recommended that the factory acquire, if needed, and post MSDS in Khmer for all chemicals used in the facility, regardless of their infrequency of use. The WRC also recommended that the factory hold regular training sessions on proper handling of chemicals for all workers who handle or come into contact with them.

Current Status

Management has added the appropriate MSDS in the storage room and the mixing room, with the exception of the MSDS for the fixer identified in the WRC's February 2009 inspection, which management has obtained and is having translated into Khmer. Management has committed that the latter will be posted once the translation is available.

Management committed that containers in which chemicals are kept will also be labeled with safety instructions so that workers will have easy access to the most important information on proper handling.

¹¹ See, ILO, *Control of Hazardous Substances* (Sept. 19, 2007), available at: [http://www.betterfactories.org/content/documents/1/37%20Control%20of%20hazardous%20substances%20\(en\).pdf](http://www.betterfactories.org/content/documents/1/37%20Control%20of%20hazardous%20substances%20(en).pdf)

Management conducted a training on safe handling of chemicals for the members of the newly- elected occupational safety and health committee in February 2009. As discussed, management has committed to conduct a more comprehensive train-the-trainer session covering this subject in October and November 2009, so that committee members will be able to share their knowledge with co-workers.

The WRC will continue to monitor the progress on this issue.

c. Failure to Provide Proper Ventilation

Findings

The WRC found that Darong was failing to provide a safe and healthful environment for workers by neglecting to ensure that there was adequate ventilation in the factory's mixing room, an area where chemicals with the potential for harmful health effects are regularly used. Specifically, the mixing room had only one exhaust fan in operation, and lacked a local exhaust hood to remove the vapors from the work table, both of which violate the health and safety standards established under Cambodian Labor Law.¹²

Recommendations

The WRC recommended that the factory ensure proper ventilation in the mixing room by adding a local exhaust hood above the work table and additional wall-mounted exhaust fans in accordance with the recommendation of the ILO Better Factories Cambodia program.¹³

Current Status

In response to the WRC's recommendations, management installed an additional wall exhaust fan in the mixing room. While the company management has agreed to the installation of an exhaust hood over the mixing table, this measure has not yet been implemented. The WRC will continue to monitor Darong's implementation of our recommendations.

d. Failure to Maintain an Adequate Temperature

Findings

During its inspection on September 18, 2008, the WRC found that the temperature in the factory's printing room was 34-35° C (95° F), which is above the proper temperature level. When combined with the pervasive chemicals vapors, the environment in the printing room clearly violated the requirement under Cambodian Labor Law that temperatures be kept at a reasonable level.¹⁴

Recommendations

¹² See, Prakas 125, Clauses 1-3.

¹³ See, ILO, *supra*, n. 11.

¹⁴ See, Prakas 147, clause 1,2 and 3 and Prakas 125, clause 1

The WRC recommended that the temperature in the printing room be kept at no higher than 32° C (89° F). The WRC suggested that this be accomplished by installing a water-cooling system and/or additional exhaust fans. The WRC also advised that the factory install thermometers to monitor the temperature regularly in accordance with the requirements of Cambodian Labor Law.¹⁵

Current Status

In response to the WRC's recommendations, management installed additional fans to cool the printing section. Management also installed thermometers in the production areas of the embroidery and printing departments and has, since June 2009, regularly recorded the temperatures in these sections. However, the WRC found that several exhaust fans were shut-off during production, and that temperature was still above an acceptable level during a follow up inspection on May 20, 2009.

Management now has committed to keep the exhaust fans on at all times during production and will seek to implement further measures with input from the new occupational safety and health committee. The WRC will continue to monitor this issue, as it may be the case that a water-cooling system is required in order to bring the temperature down to an acceptable level.

e. Absence of an Eyewash Station

Findings

When, as at Darong, chemicals are used which are hazardous if in contact with the eye, it is essential that management provide an eyewash station in the factory. However, despite having put in place a written policy in February 2008 that required installation of an eyewash facility, at the time of the WRC's first inspection on September 18, 2008, there was still no eyewash facility at the plant.

Recommendations

The WRC recommended that the factory install an industrial eyewash station in or near the mixing room.

Current Status

The factory has installed an industrial eyewash station in the mixing room.

e. Inadequate Hand Washing Facilities

¹⁵ See, Prakas 147, clause 1

Findings

Factories must provide workers with adequate access to soap and water for hand washing, both for sanitary reasons and, in this case, as a means of removing chemicals for which skin contact may pose a health hazard. On the day of the WRC's first inspection of Darong on September 18, 2008, however, there was no soap provided to workers in the factory's washrooms. Moreover, workers reported to us that on those occasions when soap is provided it is typically of very poor quality, and that higher quality soap is only provided when the factory is inspected by outside auditors.

Recommendations

The factory should ensure that washing facilities are stocked at all times with soap of adequate quality to remove chemicals or other substances on the surface of the skin.

Current Status

During the WRC's follow-up inspections on February 2, 2009 and May 20, 2009, washrooms were supplied with soap of adequate quality. However, workers continue to report that during some periods soap is used up before being replenished. The WRC recommends that management keep a log of washroom maintenance to ensure that there will be an adequate supply of soap at all the time.

f. Inadequate Health Clinic Facilities

Findings

Due, perhaps, to the prevalence of work-related health hazards in the factory, its on-site health clinic, as discussed, regularly provides treatment to a significant number of employees.¹⁶ However, the clinic has only two beds, which the WRC found to be clearly inadequate in view of the number of workers needing the clinic's services. Moreover, the WRC found that the factory's process for approving workers to visit the clinic was overly restrictive, as employees were required to obtain signatures from both their line leaders and supervisors before being permitted leave to be seen. Finally, Cambodia Labor Law requires that all employees be afforded reasonable access to an onsite health clinic.¹⁷

Recommendations

The WRC recommended that management provide additional beds in the clinic to ensure the ability to adequately care for workers needing immediate attention. The WRC also proposed that workers only have to obtain permission from their immediate supervisors if they need to go to the clinic. Finally, the WRC proposed that, in light of the potential for employees to be

¹⁶ See, *supra*, at 6.

¹⁷ See, Prakas 330, Art. 2.

exposed to hazardous chemicals, that the clinic should provide annual health checks for all employees.

Current Status

Management added one more standard bed and, in addition, a foldable bed. The current number of beds now appears to be sufficient.

Management streamlined the process for workers to access the clinic so that employees now only need a signature from their supervisor to be seen. Supervisors have been issued forms for workers to take to the clinic indicating that their visit is approved. Some workers have voiced concerns about whether they will be denied permission to visit the clinic if the forms are not available to their particular supervisor. Management has recently ensured that sufficient forms will be available to all supervisors, and has instructed supervisors not to deny any workers access to the clinic.

Management has agreed to provide an annual health check for those employees who are working in proximity to hazardous chemicals. The WRC finds it appropriate to start with this group, but continues to recommend that such health checks be provided to all employees.

The WRC will continue to monitor this issue and may issue further recommendations.

g. Failure to Provide Personal Protective Equipment

Findings

The WRC found that although the factory had posted several notices concerning the use of PPE, many employees were not sufficiently provided with this gear or are not using it. Of most concern, in the mixing rooms, several workers were seen during the inspection without goggles, gloves, and/or boots. Moreover, some workers in the printing room were seen handling chemicals without gloves.

In addition, some of the PPE that was in use was not of sufficient quality. Although the WRC observed that employees were supplied with masks, the type provided was inadequate as it failed to protect against vapors from oil-based materials. Similarly, the gloves provided to workers were those intended for household use and not sufficient to protect workers handling industrial chemicals.

Recommendations

The WRC recommended that the factory should provide boots, goggles, masks, aprons, and gloves of appropriate quality to all employees in contact with chemicals, including, in particular, workers in the mixing and printing rooms.

Current Status

In response to the WRC recommendations, management has, since June 2009, provided PPE to workers on a more consistent basis. Workers in the printing room receive new gloves and masks on a monthly basis, and new aprons every 6 months. Workers in the mixing room are provided new boots, aprons, and goggles every six months and new gloves and masks every month. Workers' receipt of PPE is recorded along with their signature. The WRC will continue to monitor whether this PPE is properly used.

Management has committed to investigate the purchase of more effective masks and gloves. The WRC will continue to monitor this issue.

2) Grievance Procedures

a. Failure to Implement a Grievance Procedure

Findings

The WRC found that while the company has installed a complaint box that is available to employees and has posted grievance procedures, no complaints had ever been recorded. The fact that workers expressed significant concerns about working conditions to the WRC suggests workers were either not aware of or lacked confidence in the grievance procedure.

With regard to the procedure itself, it is unclear in some aspects, particularly on the questions of: (i) whether an employee can be accompanied by a worker representative in meetings to discuss the grievances, and (ii) what is the timeline for management to respond the employee's initial complaint.

Recommendations

The WRC recommended that Darong Printing and Embroidery issue a verbal announcement regarding the grievance procedure and complaint box to ensure that workers are aware of these avenues for raising issues. The announcement should make clear to workers that their use of these is welcomed by management, will be taken seriously, and will not result in any punishment or other retaliation for an individual who makes the complaint or submits a grievance.

The WRC recommended that there should be a timeline for the grievance procedure of no longer than half a day for the company to give an initial response to the employee, and that employees should have the opportunity to be accompanied by a worker representative when they take up a grievance with supervisors or managers.

Current Status

At subsequent visits the WRC was able to verify that the grievance procedure has been revised according to the WRC's recommendations. It has been prominently posted and verbally announced to employees.

3) Minimum Wage

a. Underpayment of Probationary Workers

Findings

All employees at Darong Printing and Embroidery are required to undergo a probationary period of two months. Some employees in the embroidery division reported that during their probationary period they worked the night shift without being paid 200% of their regular wage, as was required under Cambodian law until July 2007, and is still the policy of the factory.

Recommendations

The WRC recommended that management should adopt a clear policy regarding payment of 200% of the regular wage to any probationary employees who work on the night shift. The WRC also proposed that any worker who has been underpaid for working on the night shift during her probationary period should receive back wages for the difference between what the worker was actually paid and what he or she should have received in accordance with company policy.

Current Status

In response to the WRC's recommendations, management implemented a policy whereby probationary workers would not be required to work on the night shift. The company also committed to compensate employees in amount of what the law at the time required that they be paid. Therefore, employees who had worked on the night shift during their probationary period after July 2007 would receive the difference between 130% of their regular wages and the wages they were actually paid, and those working on the nightshift during their probationary period prior to July 2007 would be paid the difference between 200% of their regular wages and what they were actually paid.

As the factory has, throughout the period in question, continued to pay regular employees 200% of their regular rates for night work, former probationary employees arguably should be compensated for all hours that were underpaid at the same rate. However, the WRC finds the company's plan for resolving this issue an acceptable one as it would, at a minimum, restore Darong's compliance with Cambodian labor law. The WRC has reviewed a listing of payments due to specific workers under management's proposed resolution, but will continue to monitor this issue until these workers receive payment.