

Preliminary Assessment Summary

PRAKAS Sub-Contract Monitoring in Garment and Textile Industry

Ministry of Commerce

Reference no: 000005
Date started: 10 July 2012
Date finished: 26 September 2012

The Prakas requires all subcontractors of garment and textile exporters to notify (no license or permission is required) the MOC about their contract for a nominal stamp duty.

Exports of garments are a high income earner, and the Cambodian economy is relies on this. However, major export markets depend on preferential access. Continuing such access requires Cambodian garment exporters to comply with international requirements such as the ones regarding rules of origin and ILO. This Prakas will facilitate compliance with these requirements thus protecting our garment exports.

Four options were considered: 1-the Prakas 2- registration with GMAC (as it represents a vast majority of the garment exporters) 3-compulsory commercial registration for all subcontractors, and 4-relying on awareness raising of stakeholders. Cost of compliance of all options is low. The proposal provides the second **higher** cost option, with option 2 (registration with GMAC) provided the **higher** cost. However, the benefit of option 1 was higher than any other option, including option 2. Hence, **the proposal is likely to provide the highest net benefit.**

Stakeholders were generally supportive, however there was dissenting opinion that existing measures are adequate and no further action was needed.

Though there was no formal monitoring and evaluation mechanism in place, there are significant external controls that ensure that the administration of the Prakas will be transparent and efficient.

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 Contacts:

	Name	Phone	Email
Ministry-primary	Mr. Meng Songkheang	012 82 49 48	mengkheang06@yahoo.com
Ministry-backup	Ms. Hang Socheata	097 95 99 992	hang.socheata@ymail.com
ORIA-primary	Ms. Sim Rotha	012 94 84 65	simrotha80@yahoo.com
ORIA-backup	Mr. Heng Sophakpangha	016 84 77 49	pangha.h@gmail.com

A brief description of the proposal

All subcontractors to garment and textile exporters are required to notify the MOC about their contract. The MOC does not grant permission, it only notes the subcontract and collects a stamp-fee of 500 Riel. When notifying, the subcontractors have to provide their (quarterly) production capacity. Penalties apply if the subcontractors do not comply (article 7 refers, for example, one week ban on exports for the first non-compliance).

It also requires the subcontractors to be members of the Garment Manufacturers Association of Cambodia (GMAC) which gives access to the inspection procedures for the Better Factories Program.

Currently, Cambodia does not export textiles. However, in the future it may start textile exports.

Is this proposal regulatory in nature?

Does it change the behavior of businesses? Yes

Law	Royal Decree	Sub Decree	PRAKAS	<input checked="" type="checkbox"/>	Decision	Circular	Other (describe)
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Does this proposal impact on business? Yes

1. Problem – Why are we making this regulation?

Provide evidence, not opinions or assertions, of the problem. Circle Yes or No.

Common themes		Evidence (attach notes if necessary)
Public health and safety	Yes	ILO requirements regarding the condition of the work can be monitored.
Environmental protection & conservation	Yes	Subcontractors waste can damage the environment. Eg. Bleaches are used to stonewash jeans. If the waste water is drained outside it could damage the environment. Big factories usually have treatment plants but small subcontractors may not.
Social, gender equity and cultural conservation	No	
Promote competition	No	May even impede competition by excluding subcontractors which are not members of GMAC.
Collection of information	Yes	It is easier MOC to collect information and monitor subcontractors.
Comply with WTO and international agreements	Yes	Facilitates obtaining preferential access to export markets, by making it easier to obtain certificate of origin. Also makes is easier to monitor ILO requirements.

If there is any other problem, describe and provide evidence

Cambodian garment exports have **preferential access** to European, US and other markets (in some cases zero tariff). To obtain such preferential access, exporters must meet strict certificate of origin and ILO requirements. Also, Cambodia likes to maintain its image as a "good exporter" (e.g. good labor policies). By requiring subcontractors to notify, the government makes it easier to comply with rules of origin and ILO requirements.

The import market representatives have raised concerns that some garment manufacturers may not be strictly observing **rules of origin** requirements. Though no official complaints have been made, Cambodian exporters can be seriously affected if sanctions are imposed.

Also, small subcontractors may be contravening **ILO requirements**.

The government is trying to prevent the above from happening and maintain Cambodia's reputation by introducing this PRAKAS.

State how the regulation will improve the situation

This PRAKAS will enable the government to monitor the subcontractors, thus facilitating the compliance with rules of origin and ILO requirements. It will also protect the environment. All of these will facilitate Cambodia maintaining the reputation as a good exporter and continuing access to overseas markets.

2. Objective – What do we want to achieve?

Maintain Cambodia's reputation as an exporter of garments and textiles, which complies with rules of origin and ILO requirements, thus ensuring continued preferential access to US, Europe and other markets. Also ensures that Cambodian commitment to trade and labor linkages are fully complied with.

3. Options - Consider all alternatives

3A List any (existing) regulations that are related or similar?

1. Directive No 06 SRNN issued on 15/7/2005 on the implementation of ILO Better Factories Cambodia program.
2. Inter-ministerial PRAKAS issued on 27 June 2011 on subcontract monitoring of garment, textile and footwear sectors.
3. ILO conventions to which Cambodia is a signatory.
4. RGC laws and regulations ratifying Cambodia's WTO ascension, and bilateral agreements with the US on garment and textiles.

State why these regulations are inadequate?

These regulations specify the requirements. This PRAKAS enables the government to know about their subcontractors so that the requirements can be monitored and enforced. The inter-ministerial PRAKAS of 17 June 2011 creates a Commission and Secretariat, thus providing the infrastructure to administer the regulations.

Alternatives

3B Feasible alternatives (for impact analysis)

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|---|
| 2. Compulsory registration of subcontractors with GMAC, without the need to notify MOC. |
| 3. Compulsory commercial registration for all subcontractors. |
| 4. Awareness raising of ILO conditions and rules of origin to all subcontractors. |

3C Alternatives which are theoretically possible, but unlikely to be feasible (no further analysis required, unless the status changes during the RIA process)

None.

[Note after consultation and further analysis, some alternatives may be downgraded from 3B to 3C and vice-versa.]

4. Preliminary estimate of compliance costs and competition impacts

4.1 Identification of tasks and cost-categories

4-2 Scope of the options

4-3 Estimate the level of compliance cost *increases*

Details of 4.1, 4.2 & 4.3 are at confidential spreadsheet.

BUSINESS	Level of incremental compliance cost	Justification
Option 1-Prakas	Non-significant	\$120,000
Option 2-Reg with GMAC	Non-significant	\$325,000, considering the Garment industry is a large industry in Cambodia, the figure is not significant.
Option 3-Compulsory reg	Non-significant	\$102,000
Option 4-awareness	Non-significant	\$23,000

GOVT		
Option 1	Non-significant	\$14 – Negligible.
Option 2	Non-significant	NIL
Option 3	Non-significant	\$7,000
Option 4	Non-significant	\$15,000

4.4 Estimate the level of benefits

Option	Level of benefit	Reasons
Option 1	Significant	Govt gets full information on all subcontractors enabling the ministry to monitor implementing ILO conventions/ national labor laws and compliance with rules of origin requirements. This ensures Cambodian reputation regarding trade linkages to labor standards thus facilitating continued access to foreign markets.
Option 2	Significant	Govt is closely associated with GMAC. Therefore, the registration with GMAC will ensure ILO and National Labor standards will be complied with. However, GMAC cannot guarantee compliance with rules of origin requirements. Therefore the benefit is lower than that of option 1.
Option 3	Non-significant	Commercial registration only provides the identity of the company. It does not provide any information on ILO or rules of origin requirements.
Option 4	Non-significant	Awareness raising can inform the subcontractors directly. However, it cannot monitor or enforce when ILO / rules of origin requirements are breached. Therefore this is the least beneficial of all options. But can be used to complement option 1 and/or 2.

4.5 Is there any competition impact? NO

Very small impact.

4.6 Is there any gender impact?

Does the regulation affect women more than men? YES

About 90% of the workers are women in the subcontracting industry.

Is the impact significant? No

The cost of compliance is low, and is unlikely to have a significant effect on business.

Can you quantify the impact? No.

5. Initial consultation

Consult with a representative sample of stakeholders. The purpose of this consultation is to refine the above sections. Detailed consultation can take place later, if a final RIS is required. Treat this process like a brainstorming sessions or focus group interviews.

Group	Firms	Method	Summary of views
Manu- facturer	GMAC represents 95% of garment manufacturers.	Phone	GMAC believes that existing measures are adequate to deal with the problem.
	Firm	Discussion	Informal contact with factory staff (factory uses subcontractors). They believe that the proposal involves additional work – though not too much.
Con- sumers	Mainly exporters – NO		
	Major consumers NA		
Govt	Ministries of Labour	Phone	Supports the proposal

6. Conclusion

6-1 Summary of incremental costs and benefits

Option	Costs to the industry	Costs to the public sector	Benefits
Option 1-Prakas	Non– significant	Non–significant	Significant(highest benefit)
Option 2:- GMAC rego	Non–significant	Non–significant	Significant(but lesser than option 1)
Option 3: Comp-rego	Non–significant	Non–significant	Non–significant
Option 4: awarness	Non–significant	Non–significant	Non–significant

6-2 Is a RIS required?

- NO - Provide justification and complete the rest of the PA

Justification for not proceeding to prepare a RIS
The compliance costs are small.

6-3: Selected option (*Describe the option*)

Described above.

Criterion		Reasons
Is this the least cost option to industry and community?	No	Option 3 & 4 have lower costs.
Does this option offer the greatest benefit?	Yes	Yes, see above.
Is this the least risk option to public?	Yes	Yes. This option provides the least risk by ensuring ILO conventions and Rules of Origin requirements are met. Cambodia relies heavily on garment exports, and has preferential access to selected markets. Any risk to this market is unacceptable.

If all the answers are YES proceed to step 7, else continue

If any of the answers to the above is *NO* why was the option selected? (*tick one box*)

Combination of criteria was favorable, even though one or two were negative.
Justify and go to step 7

Option 3 & 4 do not provide assurance of compliance with access to ILO and rules of origin requirements, hence puts access to export markets at risk. Therefore though the compliance costs are lower, are not acceptable. Also the difference in compliance costs is low (less than \$100,000). Option 1 has greater benefit and lower costs than option 2. So is the preferred option.

7 – Implementation

If a regulatory option was selected:

7.1 What measures were adopted to enhance transparency and good governance during the implementation stage?

The registrations will be published making the process transparent.

7.2 Should this regulation be reviewed post implementation?

If so when and how should it be reviewed?

Though there is no review mechanism in the Prakas, it will be monitored by ministry to check the effectiveness.

Secretariat of Inter-Ministerial Commission among Ministry of Commerce, Ministry of Interior, and Ministry of Labor and Vocational Training located in Ministry of Commerce will monitor the implementation of the PRAKAS. Also, the trading partners are likely to alert MOC, if there is any issue regarding rules of origin issues (e.g. transshipment). Similarly ILO is likely to alert MOC for breaches of ILO conventions (e.g. sweatshops). Given these automatic external monitoring, MOC considers that formal monitoring and evaluation procedures are not necessary at this stage.

ANY OTHER COMMENTS

None

PROCESS	Name	Position	Signature	Date
Prepared by (line ministry)				
Checked by (ORIA)				
Approved by (ORIA)				
Entered the database				
Uploaded on website				