

A Cross Country Analysis of Indonesian-Cambodian-Vietnamese Manpower Laws and Their Effects on Respective Garment and Textiles Industries

For BAPPENAS and USAID

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Executive Summary

Although Indonesia has a reasonably large garment and textile (GNT) industry, it has never reached the intensity, importance, efficiency, or reach compared to other large comparatively low-skilled labor countries. Moreover, Indonesian GNT has not grown significantly over the past decade while neighboring ASEAN countries have. One reason for this relatively stagnant growth is the structure of the Manpower Act 13/2003 which places the burden of social security on the employer. This law makes it exceptionally expensive for an employer to dismiss workers while it also mandates that employers retain and pay laborers comparatively more in cases of sick, criminal, and special leave. This undermines the overall efficiency of GNT enterprises, making other developing countries such as Cambodia and Vietnam artificially more competitive simply based on policy. Although law is important, countries' comparative advantages and the way stakeholders work between each influence industry success rates. Based on an analysis on Indonesian, Cambodian, and Vietnamese labor laws and economies, and on the viewpoints of stakeholders in the GNT industry, the SEBAR team determines that the Manpower Act 13/2003 should be revised to be more favorable to the employer based on domestic comparative advantages in comparing to Cambodia and Vietnam.

Indonesian labor law is less competitive than either Cambodian or Vietnamese labor laws. The most contentious piece of the Manpower Act is severance which can be more than ten times more expensive than Cambodia or Vietnam, depending on the reason for dismissal. Additionally, Act 13/2003 demands employers hold onto employees longer than Cambodia or Vietnam - two times longer for sick leave (twelve months compared to six months) and six months longer in the case of criminal acts. Finally, it is more challenging for an employer to fire a worker. Indonesian companies must give three notices in a six month period of time, while in Cambodia and Vietnam the employer only needs to give two warning in one year.

The Indonesian, Cambodian, and Vietnamese economies are relatively similar although each has respective comparative advantages in GNT. Data from Indonesia, Vietnam, and Cambodia show similar positive trends in GNT with reasonable growth in the early 2000s, a decline during the Global Financial Crisis of 2008 and 2009, a rebound in 2010, and renewed growth in 2011. In terms of economic competitiveness, Indonesia has the largest potential labor force for GNT, the most upstream and downstream production facilities, and the most stable macro economy. Vietnam is more competitive than Indonesia and Cambodia as it has the lowest hourly wages for workers. Cambodia is the least economically competitive with the smallest population, no upstream or downstream production facilities, a weak macro economy, and higher wages than Vietnam, but lower than Indonesia. Although Indonesia is the most economically sound, each country is dependant on imported raw materials, subject to rising energy costs, fluctuating demands, and a dearth of skilled labor. This is why changes in policy could have such a significant impact on the Indonesian GNT.

Indonesian stakeholders also voiced their opinion on Indonesian GNT, economy, and Manpower Act. From those interviewed and surveyed, the SEBAR found that each stakeholder has differing viewpoints regarding the Manpower Act and also diverse interests in the textile and garment industry. Although employers are incredibly optimistic about GNT in Indonesia, the Manpower Act creates an added, unnecessary expense which hinders overall productivity. Employees are

quite satisfied with Manpower Act because it provides base wages, fosters their ability to find and maintain jobs, and also supports them and their families when sick, dismissed, or caught in a crime. Labor unions also support the Manpower Act because it protects employees and formalizes their role as mediator between employer and employee. Finally, even though the government understands the potential of GNT, their support toward this sector is still relatively low as revising the Manpower Act or enacting new policy is politically challenging.

Based on the analysis on the Indonesian, Cambodian, and Vietnamese labor laws and economies, as well as interviews with Indonesian stakeholders, the SEBAR team recommends the Government of Indonesia consider six policy actions.

1. Adjust the total severance package by removing the requirement to give compensation pay when dismissed.
2. Implement training programs that increase laborers' skills in GNT.
3. Pursue fiber forward agreements with America where America sells discounted cotton to Indonesia while Indonesia ships finished products back to America duty free.
4. Decrease the length of sick leave to a maximum of six months; 100 percent wages paid for the first month, 60 percent for second and third month, 50 percent for fourth and sixth month.
5. Remove Article 160 from the Manpower Act that demands an employee pay a worker's family in criminal cases outside the workplace.
6. Promote the GNT industry and encourage investment which will increase available capital and encourage banks to increase lending to GNT manufacturers.

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Introduction

Indonesia is the fourth most populous country with over 232 million people, approximately 160 million of whom are engaged in the labor force.¹ Moreover, 2.5 million Indonesians enter the labor market annually.² Although the workforce is exceptionally large, with an enviable unemployment rate of approximately 5.2 percent,³ the country has an issue of underemployment with 61 percent of the workforce finding employment in the informal sector.⁴ This is problematic as most workers in the informal sector do not pay taxes, lack social protections, are not regulated by formal law, and face numerous economic risks. While Indonesia holds great potential with a young population demographic, there is an insufficient supply of formal or quality jobs available to employ the labor force and foster Indonesian industrial diversification and expansion into more value added activities. It is critical that Indonesia promote labor intensive industries that support innovation and entrepreneurship, develop skills for the undereducated, provide stable employment with proper protections, diversify GDP away from natural resources, while maintaining economic efficiency. In doing so, Indonesia could realize rapid economic growth and improvements in living standards.

One industry that has historically supported Asian economic growth and industrialization is the garments and textiles (GNT) sector. GNT can employ a significant amount of under-skilled labor, enhance human capital in countries starting at a relatively low base, create a basis for using manufacturing technology, and provide stable employment in comparison to agriculture which is seasonal. Indeed, the GNT industry has helped South Korea, Thailand, Malaysia, and China industrialize over the past three decades. By supporting garment and textile manufactures, these economies were able to employ a significant portion of the population while creating a basis to move into more value added and technology intensive industries. Now, these countries outsource much of the low skilled labor previously done in-country as growth, assisted by the GNT sector, has raised wages allowing for better education and advanced industrialization.

¹ World Bank. *World Development Indicator*. 2011. Web. 5 Sep. 2011 < <http://data.worldbank.org/country> >

² Germany. Federal Ministry for Economic Cooperation and Development. *Private Sector Development*. 2009. Web. 27 Sep. 2011.

<http://www.jakarta.diplo.de/contentblob/2361052/Daten/469200/download_wz_ssp_privatsektorentwicklung.pdf

³ 160 million (WB – based off of 69% of population engaged in workforce) / 8.32 million (BPS)

⁴ United States of America. USAID. *Measure Plus: Indonesia*. April 2011. Web. 1 Oct. 2011. <<http://indonesia.usaid.gov/documents/document/Document/582/USAID2011BGILaborLaw>>

Although Indonesia has a reasonably large GNT industry, it has never reached the intensity, importance, efficiency, or reach for a large comparatively low-skilled population. Moreover, the Indonesian GNT has not grown significantly over the past decade while neighboring ASEAN countries have. The importance of GNT has faded in the eyes of many lawmakers and bankers following the 1998 Asian Financial Crisis, the fall of Suharto (who heavily supported GNT manufacturing), and decentralization. Indonesia has become increasingly dependent on its finite natural resources, and even as the economy continues to grow at an impressive 6.4 percent, GNT remains stagnant.

Aside from a preference for natural resources, there are a number of other reasons why Indonesian GNT has not grown significantly. First, Indonesia no longer has any trade agreements with the largest garment consumers from America and Europe. Secondly, Indonesia's transportation infrastructure is poor, making longer delivery times and inflated shipping costs. Finally, in 2003, the Indonesian government (GOI) passed an enhanced Manpower Act that raised the minimum wage while simultaneously making it more difficult to hire and dismiss workers, placing the burden of social security on the employer.

While the Manpower Act is not the most important issue hindering GNT growth, it does discourage international and domestic investment as well as currently operating companies' overall efficiency. As GNT demands a large labor force, the Manpower Act makes Indonesian GNT less attractive in an incredibly competitive industry where profit margins have been shrinking. Moreover, in multiple interviews, factory executives state that the Manpower Act places inefficient restrictions on hiring and dismissing workers, makes production less profitable, and creates a budgeting problem as it is challenging for unplanned future expenses.

As wages in the Chinese GNT industry continue to rise, Indonesia should consider revising the Manpower Act to make the labor force more competitive, attracting more investment. Moreover, international garment and textile sourcing agencies are keen on investing in Indonesia as a backup to China as the country has upstream and downstream textile companies, a large population, and accessible resources. If GOI was to amend the Act, making it less restrictive and

expensive on the employer, then the country could witness a boom in the manufacturing sector that would contribute to overall gross domestic product while simultaneously decreasing unemployment rates and increasing productivity. Moreover, a strong manufacturing sector would decrease dependence on finite natural resources and environmental degradation.

In light of the benefits of a strong Indonesian GNT industry, the USAID sponsored SEBAR team (consisting of an advisor in AmCham, KADIN, and APINDO) will conduct a cross-country comparison of Indonesian, Cambodian, and Vietnamese textile manufactures to establish the extent the Manpower Act should be adjusted to enhance competitiveness,. In doing so, the SEBAR team will make recommendations on minimum wage levels and appropriate severance packages that will entice foreign investment in textile manufacturing.

Chapter I: Labor Laws

I.1 Labor Law Introduction

Domestic labor law is a tool governments use to protect workers' rights while simultaneously promoting economic growth. Labor laws tend to derive from three main objectives; 1) to correct an imbalance of bargaining power that tends to favor the employer, 2) to allow employment and the labor force to evolve with social norms and economic conditions, and 3) to correct deficiencies in the operation of labor markets. Regarding bargaining power, governments can allow the formation of unions, enforcement of labor contracts and collective bargaining, all of which should be upheld in the court of law, giving a semblance of power back to the employee. Secondly, as countries develop, populations tend to require higher standards of living. As communities evolve, governments typically pass minimum labor standards such as minimum wage rates, safety standards, limits on overtime, and child labor laws to protect an employee's basic way of life. Finally, some labor regulations have the ability to improve efficiency in the labor market. By mandating unemployment insurance or health insurance, policies compel an employer to consider hiring and dismissal strategies while encouraging the employer to consider the needs of respective employees.⁵

Southeast Asian nations created labor laws for these same reasons - to protect employees while supplying employers with manpower. Southeast Asia differs from many Western countries as it is just over the past twenty years that Indonesia (1998), Cambodia (1997), and Vietnam (1994) have enacted enforceable labor laws that are based on international labor standards. Since the 1990's, respective countries have reformed their labor laws, attempting to provide enhanced employee protections and a means to protest unfair employers while fostering economic growth. Below is a brief description of the inception and recent history of each country's labor law.

⁵ Law Library – American Law and Legal Information. Web. 22 Sept. 2011.
<<http://law.jrank.org/pages/18728/Labor-Law-Labor-Relations.html#ixzz1YNya6UIH>

Indonesia

Since the fall of Soeharto in 1998, Indonesia has experienced incredible change. Since then, Indonesian governments have implemented numerous reforms designed to liberalize the market, foster democracy, and limit state intervention in the private sector's affairs. One way in which the Indonesian government (GOI) has implemented change is through labor law. Indonesian labor law reform began in 1998 when Indonesia ratified five International Labor Organization (ILO) Core Conventions listed below.⁶

- (1) Convention No. 87 on Freedom of Association and Protection of the Rights to Organize (ratified in Presidential Decree No. 83 of 1998);
- (2) Convention No. 105 concerning the Abolition of Forced Labor (ratified in the Act No. 19 of 1999);
- (3) Convention No. 138 regarding Minimum Age for Admission to employment (ratified in the Act No. 29 of 1999);
- (4) Convention No. 111 on the Discrimination in Respect of Employment and Occupation (ratified in the Act No. 21 of 1999); and
- (5) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Forms of Child Labor (ratified in the Act No. 1 of 2000).

Following the aforementioned round of labor law reforms, the Indonesian government passed Manpower Act 13/2003 to:

“enhance the quality of workers as well as their role and participation in national development and in improving protection for workers and their families in respect to human dignity and values; That protection of workers is intended to safeguard the fundamental rights of workers and to secure the implementation of equal opportunity and equal treatment without discrimination on whatever basis in order to realize the welfare of workers/laborers and their family by continuing to observe the development of progress made by the world of business.”⁷

⁶ Suryomenggolo, Jafar. 2008. “Labour, Politics and the Law: legal-political analysis of Indonesia's Labor Law Reform program.” *Journal of Labor and Management in Development*, 9 (2009). Web. 17 Oct. 2011. < <http://www.nla.gov.au/openpublish/index.php/lmd/article/viewFile/1358/1642>>

⁷ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. II-99. 25 Mar. 2003

Additionally, Act No. 2/2004 regarding Industrial Disputes Settlement establishes the legal framework for companies and employees to take their grievances to the court of law for legal consideration.

The policies listed above, along with a number of implementing regulations, encompass Indonesia's modern law on labor. Although the laws are not perfectly efficient, it does create a foundation, protecting workers and providing a means for dispute resolution.

Cambodia

Although quite different from Indonesia's recent history, Cambodian modern political history holds some similarities as both governments are evolving out of turbulent pasts. While change in Indonesia happened rapidly after the fall of Soeharto, Cambodia has been slowly modernizing after the fall of the Khmer Rouge (1979) and subsequent occupation by Vietnam which ended in 1989. Cambodia began the multi-party democracy in 1993, with Hun Sen taking power and holding onto it since 1997. Even though Cambodian rule of law is far from perfect, it has made progress in implementing a number policies aimed at improving Cambodia's future.

Cambodia's labor law has improved in the 1990's. Before 1997, Cambodian workers suffered poor working conditions and frequent exploitation. Although imperfect work conditions remain and there are instances of worker exploitation, these have decreased substantially. Below is a list of acts that make up modern Cambodian labor law.⁸

- (1) The Law No NS/RKM/0196/17 of January 24, 1996 established the Ministry of Social, Labor and Veteran Affairs
- (2) In 1994, with support from the ILO, French Ministry of Labor, and AAFLI, the Ministry of Social Affairs, Labor and Veteran Affairs drafted a new Labor Law, in accordance with international labor regulations, which was subsequently promulgated by Royal Decree No CS/RKM/0397/01 of March 13, 1997. As the ILO helped draft the labor law, most of the Core Conventions were included in the initial release.

⁸ Asia Insurance on the internet. 1998. Asia Insurance. "Labor Law." Web. 18 Sept. 2011 <http://www.asiainsurance.com.kh/labour_law.htm>

- (3) Numerous bi-laws have been passed through PRAKAS and AC Awards that address the finer details of labor law

The 1997 Labor Law is important as it allows labor unions, upholds collective bargaining rights, provides an outlet to resolve labor disputes, and ensures minimum levels of labor sanitation, safety and general labor conditions such as working age and minimum wage. Cambodian labor law has not undergone any significant changes since 1997.

Vietnam

Like Indonesia and Cambodia, modern Vietnam has evolved through conflict. Following the Vietnam War, the country was isolated from global economic affairs until 1986 when it initiated a number of economic reforms to stimulate the economy and integrate into the global economic community. What makes Vietnam different from Cambodia and Indonesia is that it is a socialist state with only one political party that directs the country's economic, social, and policy direction. There is little public discourse in formulating legislation while the government takes a long-term view (5 to 10 year master plans) planning for the future.

As part of Vietnam's economic reforms, the country implemented the Labor Code of the Socialist Republic of Vietnam in June, 1994. The Labor Code protects the right to work, the interests and other rights of laborers, and the lawful interests of employers. The Labor Code took effect in January 1995, superseding all previous labor legislation. This document provides a general framework for labor issues, including labor agreements, social insurance contributions, overtime, strikes and employment termination. Along with this law, Vietnam also ratified 5 ILO conventions;

- (1) Convention No. 14 on Weekly Rest (Industry)
- (2) Convention No. 81 on Labor Inspection
- (3) Convention No. 120 on Hygiene (Commerce and Offices)
- (4) Convention No. 124 on Medical Examination of Young Persons (Underground Work)
- (5) Convention No. 155 on Occupational Safety and Health

Vietnamese labor law was amended as part of the country's Socio-economic Strategy for Development intending to bring Vietnam into global markets while allowing the private sector to compete with state owned companies. In 2002, 2006, and 2007, Vietnam passed a number of amendments to the labor code to reach this goal. The 2002 amendment liberalizes hiring procedures, lays out labor contracts into definite term, indefinite term, and seasonal contracts, allows authorities to amend labor contracts if deemed inappropriate, protects employees upon a merger or acquisition, describes employee and employer rights to end labor contracts, clarifies issues for collective bargaining, and sets minimum standards for employee benefits, overtime, severance, etc.⁹ The amendments in 2006 include the Revised Labor Code, Law on Professional Training, Law on Civil Insurance and Law on Labor Exportation. Finally, there was another round of amendments in 2007 addressing the strikes and labor disputes of 2006. The 2007 amendment restricts the type of strikes workers can take, but also raised the minimum wage. This combination of labor codes and amendments make up modern Vietnamese labor law.

I.2 General Protections

Most countries' labor laws provide employees with a number of general protections. Indonesian, Cambodian, and Vietnamese labor laws outline country specific rules on who, what, when, where and how citizens can enter the labor force. Specific general protections cover ideals in minimum ages in labor, restrictions on minors' working conditions, hours for the normal work week, various types of employment, normalized labor contracts, etc. It is hoped that by setting minimum protections for employees, then countries can ensure basic labor standards that will minimize the incident of exploitation or injury while providing employers with healthy, capable workers. One issue with labor laws in developing countries is that they are only applicable to employees working in the formal labor sector. In order to protect a majority of employees, countries should attempt to include as many employees as possible into the formal labor sector to not only ensure that citizens are protected by the law, but to also enhance the tax base to effectively provide social services.

⁹ Nguyen, Dao. "New Amended Labor Code." Mayer Brown. 13 May 2002. Web. 22 Sept. 2011 <<http://www.mayerbrown.com/publications/article.asp?id=8117&nid=6>>

Indonesia

The basis of Indonesian labor law is to maintain equality amongst the population while protecting children and young adults. Indonesian labor law attempts to ensure that all formal sector workers have the same opportunities without discrimination to gender, race, religion, political viewpoints, and physical disability. Additionally, companies with more than ten employees must have internal regulations that describe employment procedures.

Child labor is prohibited, but minors 13 and 15 years of age can conduct soft labor that does not hinder physical, mental, and social wellbeing. Workers between the ages of 15 and 18 are treated as adult workers, but cannot work in the “worst” forms of employment. Businesses that employ minors must receive written permits and work agreements from the minor’s parents and/or guardians. Minors can work, at most, 3 hours a day as long as labor does not disturb school time.¹⁰ Additionally, girls under the age of 18 cannot work from 11 pm to 7 am.¹¹

Indonesian labor law also provides the right for a new employee to obtain a medical checkup before commencing work. Upon receiving a “healthy” diagnosis, the worker can commence his/her position given reasonable conditions that fit the individual’s health status.¹²

Once an employee is hired, he/she will receive one of two types of contracts; an undetermined duration contract (UDC) or a fixed duration contract (FDC). The UDC is the typical contract for permanent employment protecting an employee’s right to seniority and the benefits entitled to continued service. Employers are allowed to place a UDC holder on probation during the first three months of employment to determine whether the employee fits the company. During the probationary period, either the employer or employee may cancel the employment contract

¹⁰ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 69. 25 Mar. 2003

¹¹ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 76. 25 Mar. 2003

¹² Indonesia. Minister of Manpower and Transmigration. *Regulation PER-01/MEN/1998* Article 5

without notice, reason, or penalty.¹³ During the probation, the employer must pay the employee at least minimum wage.¹⁴ After three months, the employee becomes a permanent employee.

The FDC is used for specific project types or time durations. FDC holders are hired directly and are not subject to a probationary work period. One stipulation in the FDC is that it cannot last for more than two years and it can only be renewed once. If the employer would like to keep the employee after one extension, he/she must release the employee for at least thirty days; otherwise the FDC will become a UDC. The primary difference between the UDC and FDC is that the FDC allays accumulated benefits of seniority. FDC holders agree to the terms laid out in the contract, and once the contract expires, the employer can either release the employee, release the employee for thirty days and rehire on a new FDC, or simply allow the FDC to convert into a UDC.¹⁵

Casual, part-time employees are entitled to similar rights as FDC employees, but they must work fewer than 21 days a month. If they work more than 21 days, the casual worker should be placed on a FDC, following FDC rules and regulations.¹⁶

In Indonesia, apprenticeships are allowed as part of a company's training system, but apprentices cannot be considered an official employee. If a company does have an apprenticeship program, the company must outline the rights and obligations of both the employer and apprentice.¹⁷ Additionally, companies must have a license from the government allowing apprentice programs.¹⁸ While an individual is working as an apprentice, the person must be supervised by

¹³ Indonesia Job Search on Web. "Labor Law in Indonesia." Indonesia Job Search. 28 Jun 2010. Web. 23 Sept. 2011. <<http://www.indonesiajobsearch.com/?page=article&cid=9&aid=91>>

¹⁴ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 60. 25 Mar. 2003

¹⁵ Indonesia Job Search on Web. "Labor Law in Indonesia." Indonesia Job Search. 28 Jun 2010. Web. 23 Sept. 2011. <<http://www.indonesiajobsearch.com/?page=article&cid=9&aid=91>>

¹⁶ Indonesia. Ministry of Manpower and Transmigration. *Terms of Agreement Certain Time Work*. Kep-100/MEN/VI/2004.

¹⁷ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 22. 25 Mar. 2003

¹⁸ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 25. 25 Mar. 2003

an instructor or a more experienced worker qualified to train an apprentice.¹⁹ The employer or employee is not bound to hire or accept a job offer upon completion of the apprenticeship.

Indonesian labor law sets the normal work week to forty hours a week; seven hours a day for six workdays a week or eight hours a day for five workdays a week.²⁰ If an employee works beyond normal working hours, the employer must pay overtime. An employee may work no more than three hours of overtime a day, with a maximum fourteen hours a week.²¹ If overtime is accumulated on a normal working day, the first hour receives 150 percent wages and 200 percent wages for additional overtime hours worked. If overtime accumulates on a weekly rest day or official holiday, the calculation for the first seven hours is 200 percent normal wages, the eighth hour is 300 percent wages, and the ninth and tenth hour 400 percent of wages.²²

Cambodia²³

Cambodian general protections apply to all employees who have a contract in the formal labor sector. Household employees as well as those employed by the government do not receive the same labor protections. In accordance with the labor law, companies and organizations that employ eight or more employees must have internal regulations that explicitly describe employment procedures such as benefits, the work week, vacation and sick leave, disciplinary actions for violations, medical examinations, etc.

To begin, it is important to determine who can work in Cambodia. Both men, women and those with differing religions are supposed to have equal employment opportunities. Cambodia does have a minimum allowable age for formal employment set at fifteen years old although employees under the age of eighteen cannot sign an employment contract without their parents'

¹⁹ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Articles 1-11. 25 Mar. 2003

²⁰ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 77. 25 Mar. 2003

²¹ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 78. 25 Mar. 2003

²² Indonesia. Minister Manpower and Transmigration. *Overtime Wages*. KEP 102/MEN/VI/2004 Article 11.

²³ Unless otherwise cited, all information listed below comes from the ILO's "Guide to the Cambodian Labor Law fro the Garment Industry."

ILO. "Guide to the Cambodian Labor Law fro the Garment Industry." 2005. Web. 10 Sept. 2011 <<http://www.betterfactories.org/content/documents/1/Guide%20to%20the%20Cambodian%20Labour%20Law%20%28en%29.pdf>>

consent. Minors may not work at night, at areas that are hazardous to their health or mental/physical development, or at times when they should be in school.

Before an individual is hired into the garment manufacturing sector, an employee is required to pass a medical check by the Department of Labor Medical Unit. The medical check up is used to make sure an applicant is fit for the labor being hired for as well as to determine the initial health status before employment in case the position brings about unexpected health complications.

Once hired, an employee will receive either a UDC or a FDC. The UDC contract is the traditional contract for long term employment. Under the UDC, laborers work for respective companies, accumulating seniority and wage increases based on term of employment. Additionally, UDC workers benefit from labor protections such as the employers inability to fire an employee without just cause.²⁴

The FDC is different as it is a contract for a predetermined length of time. A FDC cannot be longer than two years and must have a clear start and end date. If the contract is extended or renewed, it will automatically become a UDC, following UDC stipulations after two years. FDC employees are entitled to the same minimum wages and protections as a UDC laborer.

Aside from contract employees, there are casual, part time, probationary, and apprentice laborers who each have their own labor laws. Casual employees are those that perform a specific task for a short period of time, usually on a temporary or seasonal basis. Casual employees cannot work more than 21 days per month for more than two months in a row. These employees hold the same labor protections as contract workers, but their benefits are less as they do not work full time. Part time employees have similar rights as the casual employee, the difference being that they work less than 48 hours a week, but can continue working past two years employment.

²⁴ Workers Rights Consortium. "WRC Assessment re PCCS Garment Co. LTD. (Cambodia): Findings, Recommendations, and Status Report." Washington DC., (15 Jun 2008). Web. 25 Sept. 2011 <<http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1366&context=globaldocs&sei-redir=1#search=%22undetermined%20duration%20contract%20cambodia%22>>

Probationary employees and apprentices are employed to see if an employee is fit for the organization or to provide training to enhance an inexperienced worker's skills. An employer can set a probationary period for one month for non-specialized workers, two months for specialized, and three months for regular employees. On the other hand, an apprenticeship is strictly used for unskilled workers and cannot last for longer than two years.

In Cambodia, the normal work week is 48 hours – eight hours a day, six days a week. Any employee who works over eight hours a day or over 48 hours a week is entitled to overtime pay although overtime is limited to two hours per day. Overtime during the normal work week receives 150 percent of wages, overtime for night work pays 200% wages, while Sunday and public holiday laborers get 200% wages. Additionally, all employees, no matter which type of employee, who work regularly on each scheduled day of the month are entitled to an attendance bonus of at least \$5 per month. Employers must pay the attendance bonus if employees take authorized leave such as properly documented sick days or public holidays.

Vietnam²⁵

Similarly, Vietnamese labor law attempts to ensure that employees have the right to freely choose their career path based on their skill set. Vietnamese workers are also entitled to choose relevant trainings that increase their human capital endowment. Employers cannot discriminate on the basis of sex, race, social status, creed, beliefs or religion. Companies must observe and implement the principles of equality between men and women for recruitment, employment, advancement in wage grades, and remuneration. Enterprises cannot discriminate against female employees or carry out any action which could be deemed offensive to an employee's 'dignity and honor.'

Child labor is prohibited in Vietnam with the minimum working age set at 15 years old, while employees under the age of 18 must receive protective work conditions. Minors cannot work more than 7 hours per day or 42 hours per week, must receive 14 days annual leave, cannot work overtime or night shifts, and are not allowed to conduct difficult and/or hazardous jobs.

²⁵ Unless otherwise cited, all information listed below comes from the ILO's "Guide to the Vietnamese Labor Law for the Garment Industry."
ILO. "Guide to the Vietnamese Labor Law for the Garment Industry." Ho Chi Minh City, (2011).

Upon hiring a new employee, the employer must conduct a medical examination, irrespective of age. Based on the examination results, the employer then assigns employees jobs suitable for their health condition. The labor law requires that employees who perform hazardous work receive a medical checkup every six months. Employers are required to maintain a log book monitoring the results of employee checkups.

Once hired, an employee will be signed on one of three types of labor contracts; temporary contracts of less than 12 months, a FDC that can range from 12 months to 36 months, or a UDC. An employer cannot sign a temporary contract for regular work that would normally require 12 months or more of work. FDCs can only be signed twice with the same employee. When an FDC expires, the employer and employee must negotiate the new terms of employment. If, after 30 days, both parties have not signed a new contract, the obsolete contract is automatically considered an indefinite contract with all the rights given to UDC holders. Temporary workers have the same rights as regular workers. The difference between contracts lies on the capability of the workers to terminate the contract. Employees with a UDC have the right to unilaterally terminate the contract at any time, but must give the employer at least 45 days notice. Employees with a FDC must give an employer 30 days notice, while temporary workers must give three days notice.²⁶

Probation terms differ for each type of employee. Employees with specialized or highly technical skills or those with a college level diploma or higher may have a maximum probationary time of 60 days. Graduates from vocational schools, technical or operational staff can have a maximum probation time of 30 days. While casual or unskilled workers have six days probation.

Other than these three types of employees, companies can recruit trainees that have their own working restrictions. Employers must:

- Agree to an apprentice contract, either in written or verbal form. In the event of a written contract, an original copy must be given to each party.

²⁶ ILO. "Viet Nam Labour Code." NATLEX. (23 Jun. 1994)
<http://www.ilo.org/dyn/natlex/docs/WEBTEXT/38229/64933/E94VNM01.htm>

- Employers may not collect a training fee. The enterprise can only collect training fees for providing training and apprenticeships for outsiders who will not be employed by the enterprise.
- Pay the salary based on negotiated terms.
- If the apprentice makes products, wages must be agreed upon by the two parties and cannot be less than the minimum wage.

Normal working hours are eight hours a day, six days a week totaling 48 hours a week. Employees are entitled to one day off per week on a specified day. An employee is considered overtime if he/she works more than eight hours a day. A laborer cannot work more than four hours overtime per day. If a worker decides to work overtime on their weekly rest day in a particular week, then the employer must ensure that the employee has at least four days off during the calendar month. Overtime during the regular work week is 150 percent of wages, overtime during a rest day is set at 200 percent of wages, while overtime during public holidays entitles an employee to 300 percent of wages, and overtime during night shifts is multiplied by an additional 130 percent.

Although the Vietnamese labor law attempts to protect against excessive overtime, ILO reports record that almost all 62 factories surveyed exceed the national yearly overtime limit of 300 hours and the majority also exceed either daily or weekly overtime. The issues of excessive overtime was driven by the fact that Vietnam factories face stiff competition on price in addition to the expectation of fast turnaround times. From the surveyes, ILO conveyed that factories try to cover the excessive hours through keeping more than one set of hours records.

Analysis:

As each country's labor laws are slightly different from each other, it is important to determine which country is most economically competitive in each category.

Table 1: General Protections Competitiveness

	Indonesia	Cambodia	Vietnam
Minimum Working Age	+	-	O
Medical Check	=	=	=
UDC Contract	=	=	=
FDC Contract	+	-	=
Work Week	-	=	=
Overtime	-	O	O

+ is most competitive, O is moderately competitive, - is least competitive

= is equally competitive

Minimum working age: **Indonesia is the most competitive** as it allows children between the ages of 13 and 15 to work while children between the age of 15 and 18 can be considered as adults when working, although they can only work three hours a day. Vietnam is slightly more competitive than Cambodia as Vietnam does not set any restrictions on day time labor, while Cambodian law purports that minors cannot work if it interferes with their schooling.

Medical Check: Each country asks for or gives the right to a medical check before starting work.

UDC Contract: Each country’s UDC contract **is structurally the same**, where minimum wages and benefits determine overall country competitiveness. These metrics are discussed later in the paper.

FDC Contract: **Indonesia’s FDC contract is slightly more competitive** than Cambodia and Vietnam as it allows an employer to hire an FDC employee for an initial two years, extend one year, while permitting the employer to release the employee for thirty days and then rehire. Vietnam’s FDC contract is slightly more competitive than Cambodia as it allows for the renegotiation of the FDC contract, while the Cambodian contract must be converted into a UDC upon being employed for two years. In each country, although the FDC is meant to be implemented for no more than two years with a possible extension, it has been abused where employers have told workers to take a short break from work and then rehired under a new short-term contract along with a new employment identification card and number. Unfortunately for

the worker, this practice lets the employer avoid legally-mandated wages and benefits that accrue to workers based on seniority such as sick leave and vacation time.

Work Week: **Indonesia is the least competitive** in terms of the normal work week as the Indonesian work week is 40 hours long, while the Cambodian and Vietnamese work week is 48 hours long. This has the effect of allowing workers to accumulate comparatively more overtime pay, inflating the cost of labor.

Overtime: **Indonesia is the least competitive** in terms of overtime pay as it demands the highest percent of overtime pay. Cambodia and Vietnam are about equally competitive. Cambodia is slightly more competitive in pay as it requires only 200 percent of overtime pay on public holidays while Vietnam demands 300 percent. On the other hand, Vietnam is slightly more competitive in terms of overtime allowed giving four hours maximum a day, while Cambodia only allows two hours extra a day.

I.3 Severance

Most countries demand that employers provide employees with some form of severance payment upon dismissal to help workers get through a period of unemployment while ensuring that companies aren't dismissing employees frivolously. Indonesian, Cambodian, and Vietnamese labor laws all attempt to moderately protect dismissed employees by mandating varying degrees of severance payments as the social security system, or lack there of, does not effectively support an unemployed individual. Severance packages can contain a number of benefits such as a lump sum payments, health insurance, services, housing stipends, etc. It is important to compare the cost competitiveness of respective countries' severance packages as severance inflates the cost of employment and can have a significant effect on how companies choose to hire and dismiss employees, affecting overall efficiency.

Indonesia

Indonesia has one of the most expensive severance package regimes on Earth.²⁷ As the country lacks any social security system, the GOI drafted the Manpower Act 13/2003 mandating that employers pay a comparatively large amount of money to dismissed employees in numerous cases. Although the severance package is meant to protect recently unemployed workers and limit excessive dismissals, the cost and timeliness of procedures required to fire has undermined companies' efficiency. A majority of garment factories interviewed stated that the cost of severance was the most significant issue hampering growth in the GNT industry, well above the dearth of infrastructure or access to materials.

Indonesian labor law requires a company to submit an application explaining the reason for termination to the Settlement Institution of Industrial Relations for the dismissal of workers.²⁸ Once termination is complete, the employer is obliged to pay separation pay, appreciation fee of service and compensation money. The terms of severance are outlined in Appendix A. Today, severance pay is still a component of the retirement benefit calculation, making it a higher burden for the employer.

The amount of severance an employee receives is variable, depending on the reason for dismissal. If an employee made a serious infraction such as deceiving the employer, stealing, embezzling money, giving false information which might harm the company, being intoxicated at work, fighting, gambling, etc., then the employer does not have to pay severance but only compensation pay,²⁹ provided that the worker was caught red-handed, had a confession from two eyewitnesses, or the laborer admitted to the crime.³⁰

²⁷ ADB. "Assessment of Fiscal Cost of Social Security Related Programs in Indonesia." Mar 2007. Web. 1 Oct. 2011. <<http://www.adb.org/Documents/Books/Indonesia-National-Social-Security-System/ChapterII.pdf>>

²⁸ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 156. 25 Mar. 2003

²⁹ Compensation Pay (Article 156(4)) includes: annual leave which has not yet been taken, travel expenses so the worker and worker's family to return to the place of recruitment, compensation for housing, medical treatment and medication shall be specified 15% (fifteen percent) of the separation pay, and other matters as stipulated in the Working Agreement, Company Regulation, or Joint Working Agreement

³⁰ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 158. 25 Mar. 2003

If an employee was arrested by the police in an activity outside of work, the employer does not have the obligation to pay severance, but the employer must give aid to the worker's family. The employer must provide 25, 35, 45, and 50 percent annual salary for each dependent, respectively. The employer is not allowed to dismiss an employee awaiting trial until six months has passed or the employee receives a guilty verdict.³¹

In the case the worker violates the provisions regulated in their contract, an employer can terminate a contract after they give them first, second, and third warning successively within a six month period. The employer can also terminate a worker's contract if he/she was absent for five workdays consecutively without valid written evidence and the employer had called them two times. Employees terminated for non-performance are entitled to severance and compensation for service.³²

Indonesian labor law also attempts to ensure that workers receive severance payments for company restructuring, company bankruptcy and mass layoffs. If a company undergoes a merger or change in ownership, the company must offer each employee continued employment. If the employee does not accept the new terms of employment, the company must pay each dismissed employee normal severance and payment for services rendered.³³ In the case that the employer does not want to continue employing workers from the purchased/merged business, the restructured company must pay workers previously employed two times severance, compensation for services rendered, and any additional entitlements listed in the employee's previous contract.³⁴

When a company decides to close operations due to two years consecutive losses, the company still has to pay severance to the employees. Dismissed employees receive normal severance and

³¹ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 160. 25 Mar. 2003

³² Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 161. 25 Mar. 2003

³³ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 163. 25 Mar. 2003

³⁴ Ibid

compensation for services rendered.³⁵ If the company ceases operations for no apparent reason, the business must pay employees two times severance, compensation for services rendered, and entitlements listed in employee's contracts.³⁶ Even in bankruptcy, a company is supposed to find some way to pay laborers a one time severance and compensation payment,³⁷ although sources state that severance is rarely paid in this case.

Please reference Appendix A to see the estimated costs to severance for time served. Below is a sample calculation for severance packages between countries.

Cambodia³⁸

Cambodian labor law lays out protocol to discipline and dismiss employees and is much less restrictive to the employer in comparison to Indonesia. First, an employer must be able to provide evidence of the worker's infraction within seven days on which the problem occurred and take action within 15 days of said issue. Punishments must be commensurate with the infraction. For example, an employer can fire an employee for cheating or threatening the employer, breaching safety rules, or encouraging other employees to commit offenses. On the other hand, an employer may suspend an employee for up to two months, without wages, for a number of reasons such as being late for work, missing too many days of work, etc. If the suspension is invalid, then the employer will have to pay the worker their full wages for time suspended. If workers are suspended because there is no work to do, it is common for the employer to pay fifty percent wages. However, if an employer cancels a contract without legal reason, the employer must pay the employee full wages for the entire contract term. Conversely, an employee will have to pay the employer for any damages suffered if he/she illegally breaks a contract.

Most dismissed employees are entitled to some form of severance. An FDC employee with between six months and one year experience should be notified of dismissal 10 or 15 days prior.

³⁵ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 164. 25 Mar. 2003

³⁶ Ibid

³⁷ Ibid

³⁸ Unless otherwise stated, all information in this Cambodia section comes from the ILO's "Guide to the Cambodian Labor Law for the Garment Industry."

Severance must be at least 5% of the total wages paid to the employee during the length of an FDC. If the dismissed employee held a UDC, the employer must give longer notice before laying off - up to three months if the employee worked for the firm more than ten years. For severance under a UDC, an employer must pay seven days wages and benefits if the employee worked six months to one year, or fifteen days for each year of employment, up to six months wages. The employer does not have to pay any severance if an employee resigns.

In the case that a company has to lay off a large number of employees to reduce production, reorganize, or increase productivity, the employer must inform all employees ahead of time and terminate the most unskilled first. Employees collectively terminated have first priority to be rehired two years after dismissal. Collectively terminated employees are entitled to the same severance listed above.

Vietnam³⁹

Vietnamese terms of severance are quite similar to Cambodia. Employers cannot dismiss employees unlawfully and must provide evidence of wrong doing. Employers can fire workers if they are caught committing infraction such as stealing or embezzling, if the worker whose performance has not improved significantly or who has committed the same mistake two or more times with written warning, or if an employee is absent five days in one month or twenty days in one year without a legitimate reason. If the employer illegally dismisses an employee, the worker and employer must negotiate severance terms.

In the situation where an employee who has worked for the company for over one year and is dismissed with apparent reason and/or prior notice (which differs depending on the contract type: 45 days for indefinite term contract, 30 days for definite term of contract and 3 days for temporary contract) the employee will receive a severance payment equal to half a month's salary plus living allowance (if any) for each year of service. In the case of retrenchment because of force majeure, and the employer has made every effort to overcome difficulties but must make

³⁹ Unless otherwise cited, all information listed below comes from the ILO's "Guide to the Vietnamese Labor Law for the Garment Industry." 2011

cuts in production/workforce, employees are entitled to job-loss allowance of 1 month salary for each year of service with a minimum of two months' salary.

Analysis

Indonesian severance charges are by far, the most expensive and restrictive on the employer. This hinders Indonesia's overall efficiency in labor intensive industries in Southeast Asia. As Cambodian and Vietnamese labor laws are relatively similar with marginal differences, it is most appropriate to point out where Indonesian law differs significantly from competing economies and layout quantitative examples on the cost to the employer based on an employee's length of service, minimum wages, and reason for dismissal.

Table 2: Severance Competitiveness

	Indonesia	Cambodia	Vietnam
Cost to Dismiss	-	+	0
Cost for Restructuring	-	+	0
Ability to Dismiss	-	0	0
Process for Dismissal	-	0	0
Dismissal for Crime or Illness	-	0	0
Incentive to Find New Work	-	0	0

Dismissal for Crimes or Sickness: **Indonesian labor law is the least competitive** as it makes it exceptionally difficult to fire an employee in comparison to Cambodia and Vietnam. First, the law demands that employers retain an employee for an exceptionally long time with pay to the worker or worker's family in cases of illness (up to twelve months) or incarceration (up to six months). In both Cambodia and Vietnam, employers can directly lay off employees if they are arrested by the policy and only have to give a six month recovery period from illness if the employee was ill.

Dismissal for Poor Performance: **Indonesia is the least competitive** as employers must give employees three warnings and full severance if he/she committed infractions against company policy within a six month period of time before they are allowed to lay off the employee with normal severance and compensation for service. In Vietnam, the employer can fire the employee with two warnings in one year with no compensation pay if the warnings are considered “disciplinary actions” or normal severance if the actions were non-disciplinary. In Cambodia, an employer must give at least two warnings within one year and five percent of wages as severance to dismissed employees.

Compensation Pay: **Indonesia is the least competitive** as the law requires an employer to pay an employee additional compensation for service on top of severance. Even in the case of serious misconduct, Indonesian employers must pay an employee compensation pay, although severance is not required. Cambodia and Vietnam do not require the employer to give any “compensation for service” or any kind of severance in the case of serious misconduct, but individual contracts may stipulate some compensation for regular dismissals.

Process for Dismissal: **Indonesia is the least competitive** because an employer must submit an application explaining the reason for termination to the Settlement Institution of Industrial Relations for the dismissal of workers slows efficient business processes. In both Cambodia and Vietnam, no application is necessary and the only form of retaliation is through respective unions or through the labor court.

Dismissal for Company Restructuring: **Indonesia is the least competitive** because it is the most expensive to layoff workers in upon a company restructuring or merger. If a company restructures or is purchased and the employer wants to layoff workers, then the company has to pay double severance and normal service compensation. In Vietnam, employers must pay double severance as well, although that is half the cost of Indonesia (one month severance in comparison to two months severance). In Cambodia, workers are entitled to just normal severance if informed within the appropriate time period given by the law.

*Incentive for Workers to Find New Jobs: **Indonesia is the least competitive*** because the Manpower Act.13/2003 is structured in a way that does not give incentive for a worker to increase his/her productivity or go out and quickly find a new job as the terms of firing are quite restrictive while the significantly large severance package allows a laborer to be inactive for an extended period of time. Cambodian and Vietnamese labor law give more leeway for pushing a worker's productivity while neither law pays enough severance for an employee to stay unemployed for long.

Below is a sample calculation for severance packages in Indonesia, Cambodia, and Vietnam.

	Length of Service (Years)	Minimum Wage (2010 USD)	Severance Payment	Compensation Pay	Other Payment	Total Payment	Percent of Total Wages
Indonesia							
Severance for Serious Misconduct	5	\$100.24	\$0.00	\$200.48	\$30.07	\$230.55	3.83%
Severance for non-Performance	5	\$100.24	\$601.44	\$200.48	\$120.29	\$922.21	15.33%
Severance for Arrest	5	\$100.24	\$0.00	\$200.48	\$105.25	\$305.73	30.78%
Severance for Retrenchment	5	\$100.24	\$1,202.88	\$200.48	\$210.50	\$1,613.86	26.83%
Cambodia							
Severance for Serious Misconduct	5	\$61.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Severance for non-Performance	5	\$61.00	\$152.50	\$0.00	\$0.00	\$152.50	4.17%
Severance for Arrest	5	\$61.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
Severance for Retrenchment	5	\$61.00	\$152.50	\$0.00	\$0.00	\$152.50	4.17%
Vietnam							
Severance for Serious Misconduct	5	\$52.09	0	\$0.00	\$0.00	\$0.00	0.00%
Severance for non-Performance	5	\$52.09	\$130.23	\$0.00	\$0.00	\$130.23	4.17%
Severance for Arrest	5	\$52.09	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
Severance for Retrenchment	5	\$52.09	\$260.45	\$0.00	\$0.00	\$0.00	8.33%

Assumptions: Minimum wages are based off of average 2010 monthly minimum wages in local currency converted into USD based on 2010's monthly average exchange rates, Indonesian minimum wages are an average for minimum wages for the entire country, 2010 Cambodian minimum wages include a \$6 monthly living allowance which is included in severance payments, 2010 Vietnam wages are based on the average minimum wages between 4 regions and between Vietnamese and foreign companies, Indonesian "Other Payment" is 15% of severance or separation pay for medical and housing for those that qualify, for retrenchment in Indonesia, if the employer does not want to continue employing the employee, then workers are entitled to double severance, Vietnamese severance may include additional living allowances depending on whether the employee received a living allowance as part of their contract.

I.4 Resignation

Most countries do not require employers to pay any form of severance when an employee resigns. Although severance is not mandated, some countries recommend that employers provide some benefit if an employee resigns from his/her position with proper notice. Indonesia is one of the countries whose labor law, Manpower Act 13/2003, requires an employer to pay for services rendered and unused employment benefits. Vietnam offers resignation benefits, albeit less than Indonesia while Cambodian law does not require any benefit upon an employee's resignation. In all three countries, if an employee resigns without proper notice or sufficient reasoning, the employee can be charged with reimbursing the employer for unperformed services.

Indonesia

In Indonesia, an employee must follow specific rules if he/she intends to receive benefits upon resignation. First, a worker must submit a resignation letter thirty days prior to the date of resignation. Secondly, the employee must not be bound by a contract to serve for specific time period or end of contract. Finally, the employee must continue working at full capacity until the date of the requested resignation. If the employee follows these criteria, he/she shall receive a reward for services rendered,⁴⁰ payment for annual leave not yet taken, an allowance to return to the place of hire, and compensation for housing, medical, and health care – 15 percent of service pay. If the employee does not follow the procedure listed above, he/she may incur a penalty levied by the employer with the conditions outlined in the employment contract.

A laborer can also file a complaint against an employer and request termination if the employee experienced a serious offence such as unpaid wages for three months, physical injury, asked to commit crimes, etc. If an employee resigns in this way, then they are allowed two times severance, one times compensation for service, and 15 percent benefits pay.⁴¹ This is the same

⁴⁰ Employees are rewarded 2 months wages for 3 to 6 years of employment, 3 months wages for 6 to 9 years employment, 4 months wages for 9 to 12 years employment, 5 months wages for 12 to 15 years employment, 6 months wages for 15 to 18 years employment, 7 months wages for 18 to 21 years employment, 8 months wages for 21 to 24 years employment, and 10 months wages for over 24 years of employment.

⁴¹ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 169. 25 Mar. 2003

calculation as retrenchment listed in Part III – two times severance, one time compensation pay, and one time additional benefits.

Cambodia⁴²

Cambodian law mandates that contracted workers give written notice prior to resigning. Both FDC and UDC workers are not entitled to any specific benefit, although contracts may offer some form of severance upon resignation. If the employee quits illegally, then he/she may be charged for services not rendered.

A worker can terminate their contract for any reason with no repercussions if he/she gives notice, with the terms of notice listed below:

- If worked less than 6 months then employee must give 7 days notice
- Worked 6 months to 2 years then employee must give 15 days notice
- Worked 2 to 5 years then employee must give 1 month notice
- Worked 5 to 10 years then employee must give 2 months notice
- Worked more than 10 years then employee must give 3 months notice

Piecework employees cannot abandon the task assigned before it is completed unless the job cannot be completed less than one month. If there is a serious reason in which the contract may be terminated, he/she may do so as long as the individual gives eight days notice.

A worker can be released from the contract given prior notice for the following reasons:

- (a) For a probation or an internship specified in the contract.
- (b) For a serious offense by the employer
- (c) For acts of God that one of the parties is unable to meet his obligations.

The following instances are considered serious offenses:

- The use of fraudulent measures to entice a worker into signing a contract
- Refusal to pay all or part of the wages

⁴² Unless otherwise cited, all information listed below comes from the ILO's "Guide to the Cambodian Labor Law for the Garment Industry." 2005

- Repeated late payment of wages.
- Abusive language, threat, violence or assault.
- Failure to provide sufficient work to a piece-worker.
- Failure to implement labor health and safety measures in the workplace as required by existing laws.

A worker may also resign without penalty in the case of chronic illness, insanity, permanent disability or imprisonment. If the worker does not give proper notice, he/she may have to pay the employer based on the terms laid out in the employment contract.

Vietnam⁴³

Vietnamese law requires contract workers to give sufficient notice before resigning while FDC holders must have a valid reason for quitting. A UDC worker can terminate their contract for any reason with no repercussions if he/she gives 45 days notice prior to leaving the company. If the resignation is not legal, the employer does not have to give any severance payment, while the employee should pay the employer a half month salary including benefits, and payment for trainings received.

FDC holders must have a valid reason for terminating their contract. The reasons for resignation and the appropriate terms to resign outlined by Vietnamese labor code in Section 37 are listed below:

A worker employed under an employment contract with a definite term of one to three years or a contract for seasonal work or a specific task of less than one year shall be entitled to terminate the contract before its term, in the following cases:

- (a) the worker is not assigned to the work or workplace, or the conditions of work are not ensured as agreed upon in the contract;
- (b) the worker is not paid the full amount and at the time specified under the contract;
- (c) the worker is subject to maltreatment or forced labor;

⁴³ Unless otherwise cited, all information listed below comes from the ILO's "Guide to the Vietnamese Labor Law for the Garment Industry." 2011

- (d) the worker can no longer carry out the contract because of stated personal or family difficulties;
- (e) the worker is elected to full-time duty in representative public office or is appointed to an office in a State body;
- (f) A female worker is pregnant and must stop working pursuant to the order of a doctor.

When an employee resigns in accordance with the provisions above, the worker will receive a half month salary and payment for half benefits received for each year of service as long as they give the proper notice listed below:

- (a) in cases referred to under paragraphs (a) (b) and (c), at least three days' notice;
- (b) in cases referred to under paragraphs (d) and (e), at least 30 days' notice in respect of a contract with a definite term of one to three years, and at least three days' notice in respect of a contract for seasonal work or a specific task of less than one year;
- (c) in the case referred to under paragraph (f), a period of notice as stipulated under section 112 of this Code.

If an employee quits for any other reason than the instances listed above, such as finding a better job or moving to a different location, that employee will not receive any resignation benefit.

Analysis:

Table 3: Resignation Competitiveness

	Indonesia	Cambodia	Vietnam
Length of notice	30 days	Variable	UTC = 45 days FTC = 3 – 30 days
Resignation benefit	Yes	None	Yes
Payment to employer	Yes	Yes	Yes

It is difficult to say to what degree countries are more competitive in terms of resignation benefits and processes involved to resign. As Cambodia does not require any payment upon an

employees' resignation, it is clearly more competitive than Indonesia and Vietnam, even though the employee notice period may or may not be longer than Indonesia or Vietnam.

Although Cambodia is the most competitive, how long an employee stays with a company and why they quit dictates the competitiveness of the labor law in Vietnam and Indonesia. If an employee stayed with a company for less than three years or over 21 years, then the Indonesian law is more competitive as employees do not start accumulating service benefits until the third year of employment. On the other hand, a Vietnamese employee who quits because of employer misconduct or health complications will receive a half month salary for each year working for the company, so inherently, the employee could receive over ten months salary (the maximum salary allowance stipulated under the service pay agreement) if he/she quit for an appropriate reason after 21 years of service with the same company.

Indonesian labor law is a bit less competitive in terms of reasons to quit, as it does not lay out any specific qualifications for quitting. Moreover, Indonesian law is more straightforward, requiring workers to give thirty days notice before leaving their job. In Vietnam, UTC workers must give 45 days notice while FTC workers must have a valid reason for quitting, and based on that reason, determines how much notice is necessary.

Finally, as Cambodian and Indonesian law do not explicitly state the penalty for resigning without proper notice. Penalties for illegal resignations are to be laid out per employee contract. In Vietnam, if a worker quits illegally or without proper notice, he/she may have to pay the employer a half month salary including benefits, and payment for trainings received. Although the laws are there to protect the employer, it is reported that many employers do not levy the penalty for quitting with improper notice, or the employer does not go looking for the employee when they simply do not return to work.

I.5 Leave

It is important that companies give their workers time to rest in order to keep employees morale up, maintain worker efficiency, and enable workers to have a social/family life. As time off is a

global norm, Indonesia, Cambodia and Vietnam have set minimum standards for time off within respective labor laws. Although each country sets varying levels of mandated time off, they differ with some country laws being more competitive than others.

Indonesia

The Manpower Act 13/2003 Article 79 obliges employers to give rest time and annual leave to workers. In Indonesia, an employee is entitled to at least one half hour break after working four consecutive hours. Depending on the type of work an employee is engaged in, he/she will receive either two days off after five days of work or one day off after six days of work. Once an employee accumulates one year of consecutive employment, he/she will then be eligible for at least 12 days of annual leave. If the employee continues to work at the same company for six years consecutively, then they can take a long rest leave for up to 2 months, one month in the seventh and eighth year of employment.

Article 81 and 82 of the Manpower Act also specify several articles for female labor. Female workers who experience pain in their first and second day of menstruation are allowed to take off work. Female workers are also entitled to maternity leave for three months, one and a half months before and after birth. In the case of a miscarriage, female workers are entitled to one and a half months rest provided they have a doctor's note confirming the incident.

If a worker is ill, he/she can take sick leave. The employer is obligated to pay 100 percent of wages for the first four months sick, 75 percent for months five through eight, 50 percent for months nine through twelve, and 25 percent wages for additional months before the employee is dismissed. The law also gives workers 'special leave' for important family events such as a wedding, circumcision, baptism, death in the family, etc. Employees that take leave according to the law are entitled to their salary minus daily expenses such as transportation and meals.⁴⁴

⁴⁴ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 93. 25 Mar. 2003

Cambodia⁴⁵

Cambodian labor law aims to ensure that employees receive sufficient rest for their labor. As described earlier in the report, employees are entitled to one day off from work after six days working. Additionally, employees are entitled to annual leave – one and a half days leave per month for full time employees or .75 days annual leave a month for half-time employees. Employees who work for a company for more than three years receive an extra day of leave. This is on a rolling basis, so if an employee works for a company for nine years, they will have twenty days vacation a year. If an employee is terminated or resigns, the employer must pay for annual leave not taken.

The labor law also gives workers “special,” sick, and maternity leave. Workers can take up to seven days of “special” leave for personal reasons, although it may be deducted from annual leave. Special leave can be taken if an employee or child gets married, a wife gives birth, or if there is a death in the family. For sick leave, an employer must allow six months before dismissing if the worker is absent from work, provided he or she has a doctor’s note. Although employers are encouraged to pay 100 percent of wages for the first month of sick leave, 60 percent during the second and third months, and unpaid leave until the sixth month, they are not required to pay any sick leave. Finally, employers must give 90 days of maternity leave. Pregnant employees who have at least one year of seniority are entitled half their wages and benefits during maternity leave

Vietnam⁴⁶

Similarly to Cambodia, Vietnamese workers receive one day off for every six days working. Vietnamese employees receive annual leave based on individuals working environment. Workers under normal working conditions can take twelve days leave, workers conducting heavy work and workers under eighteen years old receive 14 days vacation, while workers doing hazardous work receive sixteen days leave. Employees are entitled to one additional day of annual leave for every five years of employment within the enterprise.

⁴⁵ Unless otherwise stated, all information in this Cambodia section comes from the ILO’s “Guide to the Cambodian Labor Law for the Garment Industry.” 2005.

⁴⁶ Unless otherwise cited, all information listed below comes from the ILO’s “Guide to the Vietnamese Labor Law for the Garment Industry.” 2011

Aside from annual leave, employees also receive personal and sick leave, while pregnant employees are entitled to maternity leave. Personal leave will be given to an employee if a family member gets married or if somebody in the immediate family dies. An employee may take a maximum of three days off for such special occasions. If more days are requested, additional days will be deducted from annual leave. The length of sick leave is given based on respective working conditions and time on the job. The maximum number of sick days and employee can take is 180 days. If the employee cannot recover during this period, the company can lawfully dismiss that employee. During sick leave, a company must pay at least 75 percent wages. Pregnant women are entitled to a maximum four months leave unless there are twins where an additional 30 days of leave are allowed. Female employee will only receive insurance benefits if they have contributed to the insurance scheme for at least six months.

Leave Analysis:

Table 4: Leave Competitiveness

	Work Week	Annual Leave	Sick Leave	Special Leave
Indonesia	-	+	-	-
Cambodia	0	-	+	+
Vietnam	0	0	0	0

Work Week: As mentioned earlier in the paper, **Vietnam and Cambodia are equally competitive** while Indonesia is the least. Indonesia’s work week is 40 hours long, while the Cambodian and Vietnamese work week is 48 hours long. This has the effect of allowing Indonesian workers to accumulate comparatively more overtime pay, inflating the cost of labor.

Annual Leave: **Indonesia is slightly more competitive** in terms of Annual Leave. Indonesia provides the fewest days off annually with no mandate to offer additional days off with seniority. Although annual leave is competitive for new employees in an organization, the competitiveness erodes after six years employment where employees can take up to three months long leave, one month in the sixth, seventh, and eighth year of employment.⁴⁷ Vietnam is slightly less

⁴⁷ It is important to note that many employees are not aware of their right to long term leave. Although the law gives this right, interview responses showed that many workers do not take the long leave.

competitive than Indonesia for annual leave, disregarding Indonesia’s long leave, as Vietnamese labor laws provide for 14 days annual leave with an additional day off every five years.

Cambodia is slightly less competitive in the Annual Leave category as it offers 1.5 days off per month – 18 days a year, and an extra day off after every three years of service.

Sick Leave: **Cambodia is the most competitive in terms of sick leave** as the labor only mandates a company to keep an employee for six months while sick and provides the least amount of accumulated benefits; 100% of wages for first month, 60% the second and third months, and unpaid leave until the sixth month. Moreover, companies are not required to pay sick leave, only encouraged. Vietnam is slightly less competitive in terms of sick leave as the law pays more than Cambodia and requires the employer to pay sick leave. Vietnam law offers 75 percent of wages for up to six months of sick leave. Indonesia is the least competitive in terms of sick leave as the labor law mandates companies to retain an employee longer than any other country if they are sick – up to twelve months before the company can terminate the employee. Additionally, Indonesia demands the highest payment to sick employees; 100 percent of wages for first four months, 75 percent for fifth through eighth month, 50 percent during ninth through twelfth months, and 25 percent for additional months before terminated. Below is a calculation of sick leave.

	Minimum Wage (2010 USD)	Cost of Sick leave	Minimum Wage (2010 USD)	Cost of Sick leave	Minimum Wage (2010 USD)	Cost of Sick leave
	Indonesia	Indonesia	Cambodia	Cambodia	Vietnam	Vietnam
1 Month Sick	\$100.24	\$100.24	\$61.00	\$61.00	\$52.09	\$75.18
3 Months Sick	\$100.24	\$300.72	\$61.00	\$134.20	\$52.09	\$225.54
6 Months Sick	\$100.24	\$551.32	\$61.00	\$134.20	\$52.09	\$451.08
12 Month Sick	\$100.24	\$902.16	\$61.00	\$134.20	\$52.09	\$451.08

- For one month sick, **Indonesia is 1.64 times more expensive** than Cambodia and 1.3 times more expensive than Vietnam

- For three months sick, **Indonesia is 2.24 times more expensive** than Cambodia and 1.3 times more expensive than Vietnam
- For six months sick, **Indonesia is 4.1 times more expensive** than Cambodia and 1.2 times more expensive than Vietnam
- For twelve months sick, **Indonesia is 6.7 times more expensive** than Cambodia and 2 times more expensive than Vietnam

Special Leave: **Cambodia is the most competitive** because it allows a company to deduct special leave from annual leave. Vietnam is slightly less competitive because employees cannot be charged annual leave for special leave. Indonesia is least competitive, offering the most time off for special circumstance such as menstruation, circumcision, baptism, etc.

I.6 Strikes and Lockouts

Since the Industrial Revolution, strikes and lockouts have played an important role in finding equilibrium between employer and employee. Strikes and lockouts are used primarily by unions and employers to counteract unfavorable demands by opposing stakeholders. Through the strike or lockout, a business or a group of workers attempts to paralyze operations in order to affect change.

Strikes are typically organized by labor unions when the rights, working conditions, or wages of workers are insufficient for employees' standards of living. By rallying enough laborers to stop working and collectively voicing their demands, a strike aims to constrain company operations. Labor unions hope that by threatening or by implementing a strike, an employer will experience enough hardship that he/she will concede to union demands. In the past, strikes have had mixed success, sometimes ending in employees receiving what they asked for and at other times finishing in violence.

On the other hand, lockouts are used by employers to restrict the livelihoods of employees, pressuring them to increase productivity and/or efficiency or change labor laws and/or contracts. By halting operations, the employer attempts to influence employees to consider the enterprise's

needs and desires, amending operations to better fit operations. Just like strikes, lockouts have had varied success rates, sometimes ending in disaster and other times positive change.

As both strikes and lockouts are globally viewed as inherent rights to employers and employees, governments have passed laws protecting both the worker and the employer by allowing strikes and lockouts. Indonesia, Cambodia, and Vietnam have all passed laws that allow for strikes and lockouts. Even though both devices are allowed, the laws are structured to decrease the volatility of such action while creating a mechanism to peacefully and efficiently solve respective labor grievances.

Indonesia

Indonesian Manpower Act 13/2003 lays out the terms in which unions and employers can strike or lockout workers. Article 137 states “strike is a fundamental right of workers/laborers and trade/labor unions that shall be staged legally, orderly and peacefully as a result of failed negotiation.” On the other hand, Article 147 purports that “lockout is a fundamental right of entrepreneurs to prevent their workforce either in part or in whole from performing work as a result from failed negotiation.” By writing these pieces into law, Indonesia allows employers and employees to take action when necessary. Although the law protects these rights, it also lays out conditions in which employers and employees can strike or lockout workers in Chapter 11 Subsection 2: Strike and Subsection and Chapter 11 Subsection 3: Lockout.

For a legal strike or lockout, the employer, union, or group of workers must give the opposing party seven days notice before taking action, otherwise the strike will be deemed illegal. This gives each side time to prepare to consider either meeting demands or halting operations. Strikes and lockouts must have designated representatives who have authority to negotiate with the opponent.

While workers are allowed to strike and voice their demands, an employer is allowed to protect the company by prohibiting strikers from entering the place of work. Moreover, striking workers must allow workers who are not striking access to the company. Conversely, an employer is not

allowed to arrest or detain peaceful strikers, replace workers on strike with laborers outside the enterprise, or impose sanctions on said strikers.

If the company cannot settle the dispute with the employees, then the affected sides must report to the government agency responsible for manpower affairs. If the strike/lockout cannot be solved, it can be terminated or continued. If a legal strike or lockout continues where workers are attempting to receive normative demands, then they will receive normal wages. If the company is looking for normative demands, then the worker shall not receive wages. If the strike or lockout is illegal on either instigating side, then laborers will not receive wages while employers will have to pay wages.

Cambodia⁴⁸

The foundation of Cambodian law on strikes and lockouts relating to the protections and processes involved with such action are quite similar to Indonesia's with a few marginal differences listed below.

- Cambodian labor law states that an employer can immediately fire any striker who commits any act of violence or serious misconduct.
- It will be considered a "serious misconduct" if the worker does not return to work within 48 hours of the strike's end.
- The employer cannot deduct the \$5 attendance bonus from workers participating in a legal strike.
- **Employees are not entitled to pay when they go on strike.**
- If an employer hires new employees during a strike, then the employer must pay the salaries of striking employees for the entirety of the strike.

⁴⁸ Unless otherwise cited, all information listed below comes from the ILO's "Guide to the Cambodian Labor Law for the Garment Industry." 2005.

Vietnam⁴⁹

Vietnamese law on strikes and lockouts is more similar to the Cambodian labor law than the Indonesian labor law, but is a bit more favorable than both in terms of the employer. Below are some of the key conditions that differ or have better clarification in comparison to Indonesia.

- Employees who do not strike but must suspend working because of the strike are entitled to their wages.
- **Striking employees are not entitled to wages or any other benefits.**
- Strikes that are not part of a collective labor dispute are not permitted.
- Strikes by a group of people not working for the enterprise are illegal.
- Strikes which do not represent the collective opinion of the workforce are illegal
- Strikes by a provisional trade union are illegal
- If there is an illegal strike/lockout, those found to be “at fault” must compensate the employer for any damages.

Analysis

As stated earlier, the Indonesian, Cambodian, and Vietnamese labor laws are similar. Although alike, both **Cambodia and Vietnam are more competitive** in terms of business efficiency. While Indonesian law protects workers’ wages during a legal strike, both Cambodian and Vietnamese workers are not entitled to pay. Next, Indonesian labor law asks the government to issue a ministerial decree upon strikers’ violence or “serious misconducts,” when Vietnam and Cambodia allow the employer to fire in these cases. Finally, Vietnam places more conditions on unions and employees for reasons to strike in comparison to Cambodia.

Even though paying wages during a strike could be expensive to a company, no employer interviewed stated that strikes were a serious issue or expense in Indonesia.

⁴⁹ Unless otherwise cited, all information listed below comes from the ILO’s “Guide to the Vietnamese Labor Law for the Garment Industry.” 2011.

I.7 Death and Disability

Labor laws in Indonesia, Cambodia and Vietnam also attempt to protect workers' families' ability to subsist upon the death or disablement of said laborer. Each of these countries mandate that an employer pay some amount of money to an employee or their family if the worker loses some capacity to work on the job or if he/she dies at work.

Indonesia

In Indonesia, the GOI insurance plan, JAMSOSTEK, is supposed to cover all employees insurance needs if the company enrolled in the program. So if an employee is injured at work, JAMSOSTEK will pay the employee's medical bills. The company's responsibility will be to pay sick leave (reference Part V), at least giving enough money to survive for up to 12 months.

If the worker is ill for exceptionally long or disabled from a work related accident that keeps the employee from working for at least 12 months, then the employee can request to be terminated. In this case, the employee is entitled to receive two times severance, one time compensation pay, and additional benefits. The same terms apply if the employee dies from a work related accident.⁵⁰ The calculation for this severance is the same as severance for retrenchment listed in Section III

Cambodia⁵¹

Cambodian labor law mandates an employer to provide some basic protections in case a worker becomes disabled or dies on the job. If an employee becomes ill or is injured at work, the employer must pay the employee's medication and health care costs. If the injury temporarily or permanently disables or kills the worker, the company must compensate the employee or the employee's family. If the worker is temporarily disabled, he/she is entitled to normal wages until a doctor sees it fit for the employee to return to work. If the employee is permanently disabled,

⁵⁰ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 166. 25 Mar. 2003

⁵¹ Unless otherwise cited, all information listed below comes from the ILO's "Guide to the Cambodian Labor Law fro the Garment Industry." 2005.

the labor law breaks down compensation based on the percent of incapacity (assessed by a doctor).

- If the incapacity is less than 20 percent, then the worker receives normal wages for time away from work until a doctor deems it fit for him/her to go back to work.
- For incapacity from 20 percent to 50 percent, the employee is entitled to a yearly payment of $\frac{1}{2} \times (\text{annual earnings} \times \% \text{ incapacity})$.
- For incapacity over 50 percent, the worker receives $100\% \text{ annual earnings} \times [25\% + 1.5 \times (\% \text{ incapacity} - 50\%)]$
- If the disabled worker requires constant care from another individual, than compensation must be increased by 40%

Compensation must also be paid if a worker dies. First, the employer must pay all the funeral costs, at least three months wages, and an annual allowance. The annual annuity pays out 30% wages for one dependent (wife/husband and/or children), 45% wages for two dependents, 60% wages for three dependents, 70% for four dependents, and a maximum 85 percent of wages for five or more dependents.

Although Cambodian labor law stipulates the employer pay compensation as an annuity, the employee or employee's family may request a lump sum payment.

Vietnam⁵²

Vietnamese law provides similar benefits as Cambodia, although with a different calculation for compensation. Moreover, Vietnamese labor law provides compensation to workers who are disabled or killed while traveling to or from work. The compensation layout is listed below.

Compensation for an occupational accident when the employer is at fault:

- For incapacity between 5% and 10%, the worker is entitled to at least 1.5 monthly wages and benefits.
- For an incapacity more than 10% but less than 81%, the worker is entitled to monthly wages equal to $1.5 + [.4 \times (\% \text{ reduction in capacity} - 10)]$

⁵² Vietnam. MOLISA. "Instructing the Implementation of Compensation to the Victims of Occupational Accidents and Diseases." Circular No 10/2003/TT- BLDTBXH. 18 Apr 2003. Web. 15 Oct. 2011. <www.antoanlaodong.gov.vn/Download.../Circular_10-2003pdf.pdf >

- For an incapacity more than 81% to death, the worker is entitled to at least 30 months wages and benefits

Benefit compensation for occupational injury in cases where the worker is at fault or such events as an accident while traveling to and from work or unlucky events as a fire or flood are entitled to monthly wages based on the formulas below.

- For incapacity between 5% and 10%, the worker is entitled to at least .6 monthly wage and benefits.
- For incapacity more than 10% but less than 81%, the worker is entitled monthly wages equal to $.4 \times (1.5 + [.4 \times (\% \text{ reduction in capacity} - 10)])$.
- For incapacity more than 81% to death, the worker (or family) is entitled to at least 12 months wages and benefits.

Analysis:

	Minimum Wage (2010 USD)	Cost of Sick Leave or Death	Compensation Pay	Other Payment	Total Payment
Indonesia					
Disabled and Can't work (12 Months)	100.24	902.16	0	0	\$902.16
Severance after 12 Months sick	\$100.24	\$1,202.88	Sick leave = 902.16	\$210.50	\$2,516.02
Death on the job	\$100.24	902.16	\$200.48	\$210.50	\$1,613.86
Cambodia					
Disabled less than 10%	\$61.00	Normal wages for time away from work (Usually short period of time)	Medical expenses	NA	Variable
Disabled 50%	\$61.00	\$183.00	Medical expenses	NA	Variable
Death on the job	\$61.00	\$219.60	Funeral (at least 3 months wages - \$183)	NA	Variable
Vietnam				NA	
Disabled less than 10%	\$52.09	\$78.14	Medical expenses	NA	Variable
Disabled 50%	\$52.09	\$911.58	Medical expenses	NA	Variable
Death on the job	\$52.09	\$625.08	At least 12 months wages	NA	\$625.08

**Disabled Cambodian employees received their disabled allowance annually. Cambodian families receive the death entitlement annually.

The chart above outlines the various payments an employer would have to give a worker if an employee was injured or died at work. As injuries and sicknesses vary per case, one cannot determine which program is more competitive without considering in-country medical costs per instance or time needed to recover before going back to work. Moreover, although Indonesia's death payment is considerably more expensive than Vietnam's, the annuity payment to a Cambodian family could potentially be more expensive than either Indonesia or Vietnam, depending on how long the family receives the annuity.

I.8 Concluding Remarks on Labor Laws

The analysis above shows that Indonesian labor law is less competitive than either Cambodian or Vietnamese labor laws. The most contentious piece of the Manpower Act is severance. The comparatively expensive severance packages Indonesian companies must pay dismissed workers as well as the challenging means and processes involved in firing an employee decreases companies' competitiveness, constrains investment in labor intensive industries, and creates moral hazard where companies may try and use workers illegally while laborers may work less productively because it is hard and expensive to fire them. Combined with generous sick leave and special leave, Indonesian labor law hinders employers to increase worker productivity while decreasing employees' responsibility to the company they work for.

Although there are a couple of competitive pieces of the Indonesian labor law, such as the minimum working age and length of annual leave, they are only moderately more competitive than the other countries and have a limited impact on companies' bottom line. As Indonesia has the largest population and economy in Southeast Asia with over 60 percent of laborers working in the informal labor sector, GOI should consider revising the Manpower Act 13/2003 to be more competitive. This will increase investment in labor intensive industries, providing many employment opportunities. Moreover, as companies hire more workers, Indonesia's tax base will increase allowing the government to invest more heavily into the country's development.

Chapter II: Economic Overview of the Garment Industry in Indonesia-Cambodia- Vietnam

II.1 Introduction

The main objective of a labor law is to increase the welfare of society. The objective can be seen from three perspectives:

1. Government perspective on how to minimize unemployment while maintaining economic growth.
2. The Employers perspective on how to make their company compete in the global market while continuously increasing profits and competitiveness.
3. The labor perspective on how to improve individual welfare by continuously increasing the minimum standard of living with raises in income that exceeds the rate of inflation.

Every country in the world has a distinct economic typology. From industrial composition and per capita GDP levels, we can indicate that developed and developing countries have significant comparative advantages. Differing comparative advantages highly affect the type of industry countries specialize in. Even if two countries have similar comparative advantages in a labor intensive industry, there will still be differences in technology, infrastructure, and government policy. Therefore, simply comparing labor laws between countries is insufficient to accurately conclude specific reasons for why one industry performs better in one country in comparison to others.

Important metrics to consider are labor productivity, availability of infrastructure, the level of technology utilization, and other determining factors. The synergy between these factors will determine countries' overall economic competitiveness in comparison to others. In this analysis comparing Indonesia, Cambodia and Vietnam labor laws we use the garment industry as a sample because it is one of the most labor intensive industries that have historically aided industrializing nations in Asia.

GNT demands a significant amount of low-cost laborers to be cost competitive on a global scale. As cheap labor is of great importance, countries' labor laws can have a measurable impact on the overall viability of GNT. GNT is divided into five distinct sectors: fiber, yarn, fabric, garments, and other textiles. Each of these sectors demands differing inputs, but garments is the most labor

intensive. Indonesia and Vietnam have each of these sectors but Cambodia focuses primarily on garments.

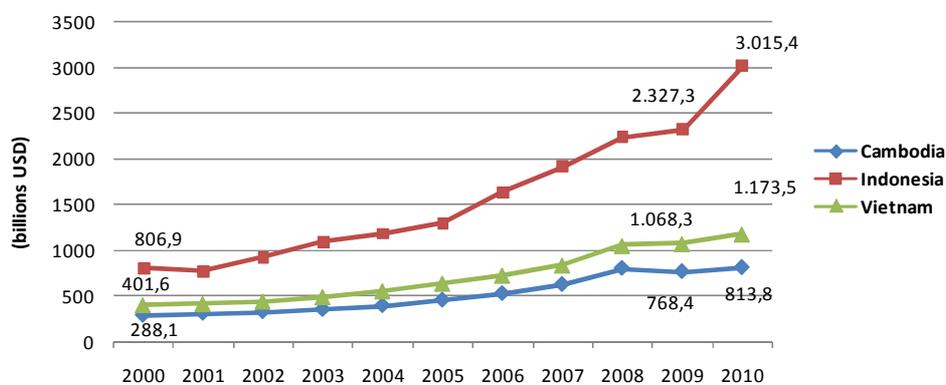
II.2 Macroeconomic Comparison

Indonesia, Cambodia, and Vietnam are ASEAN countries which have unique characteristics. Looking at respective macroeconomic indicators is a good starting point to compare the similarities and differences between countries. This analysis looks at several indicators to see how the economy in each country performs.

Per Capita GDP

A country's per capita GDP is an excellent indicator that shows the basic welfare rate of society. The difference in the rate of welfare between countries explicitly represents the difference in the lowest allowable living standard. Where the minimum wage determines the floor of acceptable living standards while per capita GDP shows the average and how much high earning individuals augment the statistic. Compared to Cambodia and Vietnam, Indonesia has the highest per capita GDP. Between the period of 2000 and 2010, Indonesia's GDP per capita increased sharply compared to the GDP per capita of Cambodia and Vietnam. Figure 1 represents the Indonesian GDP per capita from 2000-2010 which increased approximately 274 percent while Cambodia and Vietnam grew 182 percent and 192 percent respectively.

Figure 1. Per Capita GDP

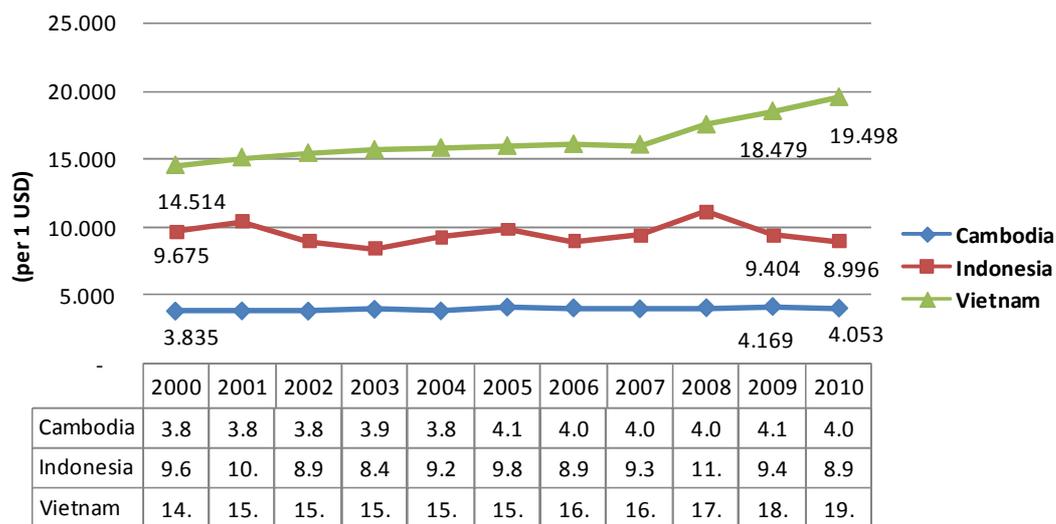


Source: World Economic Outlook Database, IMF April 2011

Exchange Rate

Local currency versus US dollar exchange rates (as well as a basket of other currencies such as the Euro and Yen, which are not considered here) affects international trade. Generally, one percent depreciation in the local currency will increase the export value by more than one percent. Hence, a stable exchange rate regime is needed to maintain investors' expectations for that specific country. Figure 3 shows that Indonesia and Cambodia⁵³ have a more stable relationship to US dollar exchange rate in the period of 2000- 2010 than Vietnam, which shows a trend of dong depreciation from 2007. After the global crisis of 2008-2009, Vietnam is more affected by reduced demand in Western countries compared to Indonesia and Cambodia which recovered more quickly from the financial crisis.

Figure 2. Exchange Rate



Source: World Economic Outlook Database, IMF April 2011

Minimum Wage

Five factors determine the minimum wage: the minimum living standard, productivity, economic growth, marginal issue, and market conditions. If any one of these factors, or if they increase at the same time, then it can be expected that the minimum wage will increase as well, albeit after a couple of years of sustained growth. In early 2000, Indonesia had a minimum wage

⁵³ The Cambodian riel is pegged to the US dollar while many local businesses conduct all transactions in US dollars. This explains why the currency does not fluctuate against the dollar.

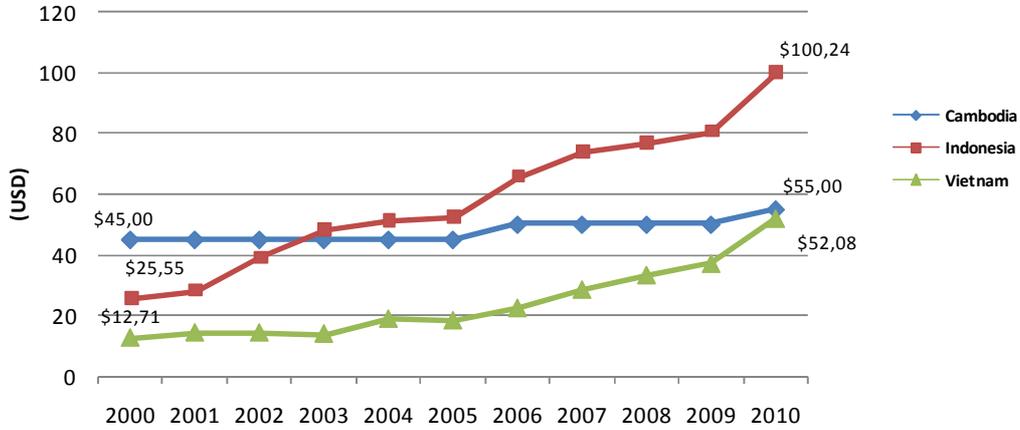
of US\$25.55, while Cambodia was at US\$45 and Vietnam at US\$12.71.⁵⁴ The minimum wage figure shows that Indonesia faced relatively high inflation rates in 2001, 2005, and 2008 (see figure 4). Coupled with significant economic growth, the minimum wage increased accordingly, settling to its current level where employers feel that the minimum wage is fair.

Generally in each country the government will determine a national minimum wage, a minimum wage for each region, and a minimum wage for each industry. Uniquely, Vietnam has a different minimum wage regime where starting in 2008, the government set a minimum wage per region and whether the company is state owned or privately owned. This condition led to sharp increase of the minimum wage from 2008 of US\$ 33.38 to US\$52.08, where most of the foreign owned companies pay a much higher wage than then state owned and domestic companies.

Although Cambodia and Vietnam also have fluctuations in inflation rates, Cambodia's minimum wage has only increased slightly from 2002 while Vietnam's has increased slower than Indonesia's, even considering the differences in company ownership. Since 2003, the Indonesian minimum wage has increased more than both Cambodia and Vietnam's.

⁵⁴ As Vietnam is a communist country, the central government controls wages more strictly than Cambodia and Indonesia to keep the cost of state owned agencies down.

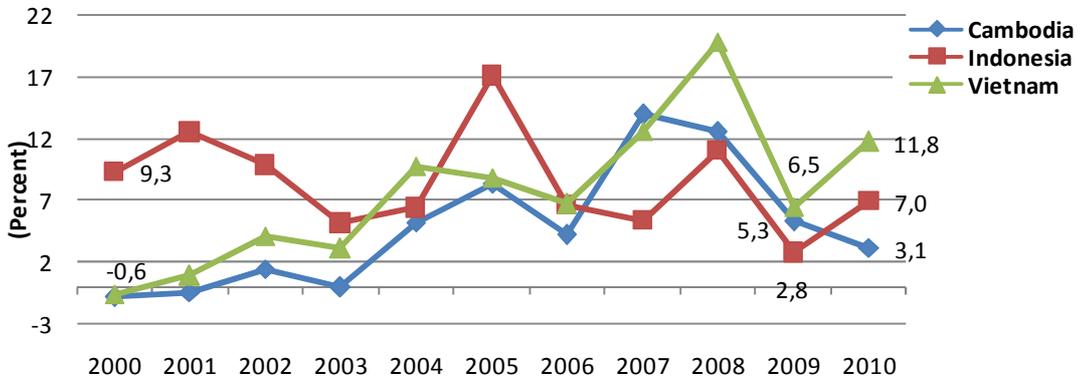
Figure 3. Minimum Wage



Note: Vietnam has different minimum wages for different types of enterprises - domestic and foreign owned starting from 2008. The data before 2008 uses the general minimum wage, while the data for 2009 and 2010 uses the average between the domestic and foreign owned enterprises.

Source: BPS and World Economic Outlook Database, IMF April 2011

Figure 4. Inflation Rate

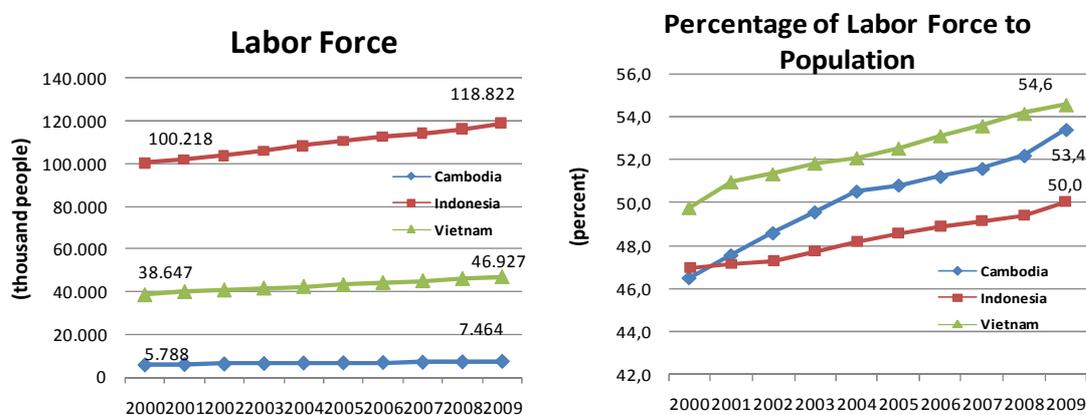


Source: World Economic Outlook Database, IMF April 2011

Labor Force

All three countries, Indonesia, Cambodia and Vietnam, are known for their abundance of low-skilled labor. For the garment industry, a large, cheap labor force is needed to support the industry's growth. Compared to Cambodia and Vietnam, Indonesia has the largest endowment of labor with over 118,822 people in 2010 compared to Vietnam and Cambodia with 46,927 and 7,464 people (see figure 5). Hence, Indonesia has the lowest percentage of 50 percent labor force to population compared to 53.4 percent and 54.6 percent for Cambodia and Vietnam.

Figure 5. Labor Force and Percentage of Labor Force to Population



Source: World Development Index, World Bank, 2010

II.3 Profile of Indonesian Garments and Textile Industry

The GNT sector is a strategic industry in Indonesia because it can absorb a significant portion of the large labor force, where over 60 percent of whom work in the informal labor sector. The GNT industry also plays an important role in Indonesia's economy and contributes to national growth. For the past 20 years, the GNT industry has been the country's largest export earner among all non-oil and gas sectors, heavily contributing to Indonesia's Gross Domestic Product (GDP).

GNT textile growth in Indonesia has five distinct growth phases; in the period from 1970-1985, GNT industry in Indonesia had limited growth and only served the domestic market with a medium to low market segments. The second phase began in 1986, where the GNT industry in Indonesia started to grow quickly as it was supported by a conducive business environment where the government heavily supported labor intensive industries and diversified away from

extractive industries. During this period, GNT companies started to comply with international quality standards for the high fashion export market. The third phase occurred between 1986-1997, where TPT industry performance increased rapidly and proved to be a strategic industry, contributing to a large portion of export income. Phase four occurred from 1998-2002, one of the most challenging periods for the Indonesian GNT industry. The Asian Financial Crisis wreaked havoc on the Indonesian economy where the currency sharply devalued and productions slowed. From 2003-2006, Indonesian GNT recovered and began expanding after exceeding pre-crisis levels. The funding issues and less conducive business environment were some of the constraints the GNT industry faced as challenges. Starting from mid 2007 until now, the GNT industry in Indonesia started to evolve into the machinery phase, modernizing and growing more capital intensive.⁵⁵

According to data from Ministry of Industry, in 2010 the GNT industry grew by more than 6 percent showing that GNT is growing on a positive pace. GNT, which is sub-divided into four categories; fiber, yarn, fabric and garments, absorbed approximately 1.34 million laborers out of a total of 107.4 million labors, or one percent of the labor force, in 2010. Garments, the most labor intensive piece of the GNT sector demanded 489,000 labors or 37 percent of the worker in GNT industry.

The geographical distribution of the Indonesian textile and garment industry is highly concentrated on the island of Java, with most factories located in Bandung, Bogor, and Jakarta area.⁵⁶ According to Ministry of Industry data, the country hosted approximately 849 companies in 2002, growing to 996 companies in 2010.⁵⁷

Currently, Indonesia still relies on substantial imports of raw materials from abroad to produce garment products. In 2010, the value of imported fibers, yarns, and fabrics totaled US\$5.7

⁵⁵ "Industri Tekstil dan Produk Tekstil (TPT) Indonesia." egismy.wordpress.com. Web. 20 Sept 2011. <<http://egismy.wordpress.com/2008/04/18/bagian-ii-industri-tekstil-dan-produk-tekstil-tpt-indonesia/>>

⁵⁶ Wu, Chongbo. 2007. "Studies on the Indonesian textile and garment industry." *Journal of Labour and Management in Development* . 7 (2007). Web 10 Oct.2011.

⁵⁷ Indonesia. Ministry of Industry. Fact and Figure Indonesia Textile Industry, Large Industry. 2009. Print.

million, recording 24% average growth from 2002. The most important import item is fabric which the Indonesian garment industry is heavily dependent on. In 2010, fabric imports were worth US\$3.5 billion, a six fold increase compared to the US\$0.6 billion imported in 2002. This condition worsened by the government recent policy to increase the import tariff for raw material. In 2009, production declined sharply to US\$5.5 billion from US\$ 6.5 billion in 2008. But in 2010, the industry recovered, producing US\$6.3 billion in 2010, increasing of 12.4 percent from 2009. Although showing a raise in the production volume, the utilization of the garment factories is only around 58% from the period of 2002-2010. This condition shows that Indonesia still has a big potential to increase their garment production.

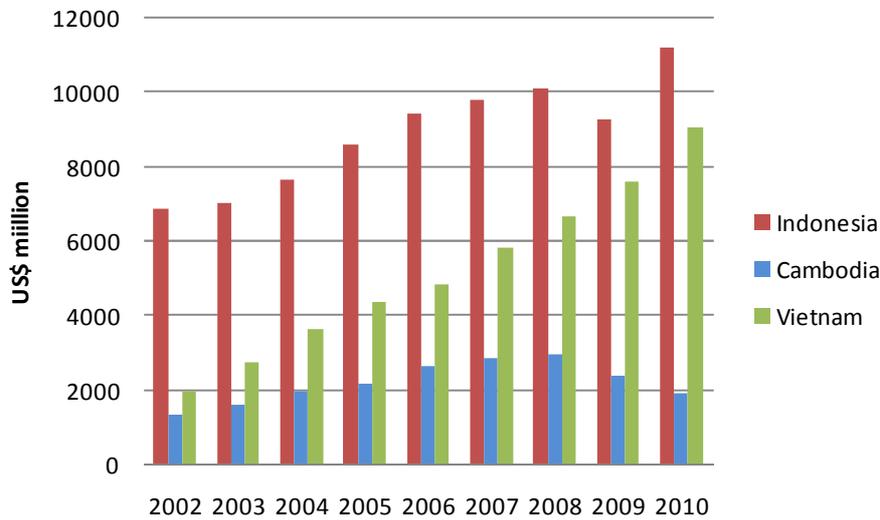
Indonesia's exports of garments continue to grow. About 90 percent of the country's garment production goes into the world market, with most garments being exported to the United States, with a 58% share, followed by Germany with 8.2% and the United Kingdom at 5.7%.⁵⁸ Since the 1990s, the garment sector contributed approximately 16% of the total value of Indonesian manufacturing exports. In 2008, garment exports accounted for US\$6 billion.⁵⁹ Moreover, as the world market shrank during the financial crisis of 2008-2009, the Indonesian garment sector declined as well where many companies were forced to stop producing due to low market demand. In 2009, the export value decreased by 5.9 percent from US\$ 6 billion to US\$5.6 billion in the previous year. Hence, the industry is revived in 2010 where the ministry of Industry (MOI) estimates that the market will rebound up to US\$ 6.5 billion, almost a 15 percent increase 2009. Overall, from the period of 2002-2010, the average of increase in garment exports is approximately 7.1percent.⁶⁰

⁵⁸ *ibid*

⁵⁹ *ibid*

⁶⁰ *ibid*

Figure 6. Indonesia, Cambodia, Vietnam Garment and Textiles Exports Growth, 2003-2010



Source: Calculated from Source ASEAN 2010

In 2002, the Indonesian garment industry employed 350 thousand workers, 33 percent of the one million GNT workers. From 2002-2010, labor absorption in the garment sector grew slowly, less than garment exports. Over the past eight years, the labor force grew only 4.4 percent. In 2010, there were 489 thousand garment workers, 36% of the 1.4 million working in GNT. Compared to Indonesia’s total labor force, this number is still small with plenty of room to grow. The government should support the industry by implementing policies that encourages employment in this sector.

Indonesia is one of the largest populated countries in the world and contributes heavily to the global garment industry. Although the domestic market can support the industry’s growth, the domestic market also faces internal and external problems. Internally, GNT companies have problems getting loans from banks. According to the Ministry of Industry, many companies face funding problems because the banking sector is reluctant to extend credits to GNT enterprises because many banks believe that the industry is a sunset industry and no longer competitive globally.

Moreover, during a roundtable discussion, Agus Tjahjana, the Secretary General of the Department of Trade and Industry stated that “the label Sunset for textile industry should not be used anymore. It is the players that must be blamed, not the industry itself.”⁶¹

Externally, the flood of cheaper garments and clothing products from China and competition from other neighboring garment producers such as Vietnam and Cambodia, eats into Indonesian market share.⁶² Thus, Indonesia could benefit from strong government policies that support the GNT sector.

Table 5. Indonesia Garments Facts 2002-2010

Year	Labor (000)	Exports (US\$ million)	Imports (US\$ million)
2002	350	3805	27
2003	352	3926	14
2004	353	4289	28
2005	346	4899	53
2006	361	5534	69
2007	408	5630	107
2008	436	6016	233
2009	459	5659	214
2010	489	6500	289

Source: Ministry of Industry. 2011 and BPS

II.4 Profile of Cambodia Garments and Textile Industry

Garments and textiles are the primary manufacture of the Cambodian economy. Combined, they account for over 70 percent of the country’s exports, 16 percent of GDP, employing 45 percent of the manufacturing workforce (5 percent of total workforce).⁶³ Moreover, a vast majority (90 percent) of the Cambodian garment and textile workforce are rural females, empowering them to

⁶¹ Indonesia. Public Relations Bureau. Bank Indonesia. “Textile Industry is not a Sunset Industry.” 23 Sept 2005. Web 20 Oct 2011. <<http://www.bi.go.id/web/en/Ruang+Media/Berita/wn+230905.htm>>

⁶² Indonesia. Ministry of Industry. *Fact and Figure Indonesia Textile Industry, Large Industry*. 2009. Print.

⁶³ United States of America. USAID. “Measure Plus: Indonesia.” Apr 2011. Web. 1 Oct 2011. <<http://indonesia.usaid.gov/documents/document/Document/582/USAID2011BGILaborLaw>>

work in the formal sector, enhancing their human capital while creating an outlet for them to provide for their families.⁶⁴

The prominence of Cambodian garments and textiles is surprising considering the industry formed in 1994. At that time, the Cambodian government courted international investors to take advantage of favorable tax incentives and low wage labor. Additionally, the United States and the European Union granted Cambodia most favored nation status and generalized system of preferences trade privileges (GMAC 2010) that helped support the infant industry. In 1999, the US and EU continued to bolster Cambodian garments and textiles by implementing a quota system that guaranteed a minimum level of imports. Although the most favored nation status and quota system was discontinued in 2005, the Cambodian garment industry has expanded, now hosting 247 operating garment factories that employ approximately 280 thousand Cambodians in 2010.⁶⁵

Moreover, a vast majority of Cambodian garment factories are foreign owned and companies have few issues cutting production and employment when demand is down. Due to this exposure, the 2008-2009 Global Financial Crisis has taken a toll on the Cambodian garment industry. In the 2010 GMAC Annual Report, the GMAC chairman states “the recent global economic crisis has affected many countries in the world and Cambodia is no exception. Since the onset of the crisis in mid 2008, we have seen more than 60 factories close resulting in more than 60,000 jobs being lost. Our exports for 2009 have seen a significant drop of approximately 20 percent as compared to the previous year. For 2010, the outlook does not appear positive.”

As Cambodia would like to protect this important industry that employs a large proportion of the manufacturing population, private businesses as well as the government would like to enhance competitiveness and diversify into upstream inputs. First, industry would like to raise productivity in order to cut costs, making cut, make, and trim manufacturing more competitive globally. Next, industry in cooperation with the government would like to harmonize industrial

⁶⁴ South East Asia Business Textile Review. Textile Media Services. Keighley: Aug 2009.

⁶⁵ Garment Manufacturers Association of Cambodia. “2010.” Web. 23 Sept 2011. <<http://gmac-cambodia.org/bulletin/2010.pdf>>

relations to reduce the frequency of strikes and attract foreign investment to utilize cheap labor. Finally, Cambodia would like to develop a local fabric industry in order to supply manufacturers.

Garment exports in Cambodia rose from US\$ 2.61 billion in 2006 to US\$ 2.98 billion in 2008. At the end of 2008, the worldwide economic downturn had a massive impact on Cambodia's garment sector. United States and Europe which was Cambodia's main importers, started to lower their garments demand. Thus, Cambodia's exports are down to US\$2.4 billion, a decrease of 18.9% from the previous year (see figure 6).

Also affected by the crisis is the number of factories in operation. In early 2003, there were 188 factories operating in Cambodia, which grew to 300 in 2008. In 2009, some factories shut down with the total number of factories dropping to 243 by the end of 2009. The factories that managed to keep operating and producing garments, operated at 60-70 percent total capacity.⁶⁶ The number of manpower in the garment industry also fell down in that period. The garment industry which typically grows on average at 10 percent 2002-2007, shows a sharp decline of 15 percent from 2008 to 2009. There are 266,800 people left in the garment industry compared to 352,955 people in the previous year.

However, In 2010 Cambodia's garment industry started to show signs of recovery. Although Cambodia has not yet reached its pre-crisis levels, the number of factories operating reached 262 factories with manpower growing to 319,383 people by the end of 2010. Hence, with that number of factories and manpower, Cambodia has succeeded in reaching pre-crisis garment production.⁶⁷

⁶⁶ ILO. Cambodia Better Factories. "Cambodia's Garment Industry struggles in the Face of the Global Economic Downturn." 2010.

⁶⁷ ILO better factories Cambodia. "Cambodia's Garment Industry Rebounds from the Global Economic Downturn". 2011

Table 6. Cambodia Garments Facts 2002-2010

Year	Labor (000)	Exports (US\$ million)	Imports (US\$ million)
2002	200	1343,67	N/A
2003	234	1609,69	713
2004	258	1982,79	867
2005	284	2190,31	1003
2006	334	2651,51	1202
2007	350	2866,32	1350
2008	353	2981,27	N/A
2009	297	2417,85	N/A
2010	319	1929,06	N/A

Source: ILO Better factories Cambodia, 2011

II.5 Profile of Vietnam Garments and Textile Industry

The Vietnamese GNT industry started to export to countries of the Communist economic block in 1976. To begin, all Vietnamese exports went to the Former Soviet Union through subcontracting cooperation. Through cooperation, Vietnam received cotton from the Former Soviet Union and delivered back finished goods. In 1979 Vietnam expanded this kind of cooperation with Hungary, Czechoslovakia, and East Germany. In 1986 Vietnam signed subcontracting agreements with the Former Soviet Union (The 19 May agreement) to supply large volumes. According to this agreement, the Soviet Union supplied all materials, designs, and styles while Vietnam assembled the clothes and delivered readymade clothes and consumer goods. In the period from 1987 - 1990 the industry progressed markedly. Garment enterprises were set up throughout the country attracting hundreds of thousands of laborers and contributing notably to the State budget.

After the collapse of Former Soviet Union and East European countries, the textile and garment industry declined. It is said that in the period from 1990 - 1992 was the most difficult time for the Vietnamese GNT industry.

Driven by economic reforms in the late 1980s, Vietnam entered a new stage of development, integrating into international trade markets Vietnamese exports of textile and garments found

niches in the global garment chain. During the 1990s, the industry attained an annual growth rate of 10.7 percent, accounting for 9.14 percent of industrial GDP (base on the 1989 price index).⁶⁸

The past decade has been momentous for Vietnam's textile and garment industries as the country has moved from complete state control to a much freer economy, allowing individual entrepreneurs and small companies to thrive. Between 2001 and 2009, Vietnamese exports raised 78 fold, reaching US\$9.1 billion (see figure 6). In 2009, where approximately 3,700 textile and garment companies, employing over 2 million workers, GNT have become the country's largest industry.⁶⁹ Moreover in the first four months of 2010, garments alone made up 57 percent of Vietnam's total exports to the USA.⁷⁰

But the Vietnamese industry still has some way to go to even approach the success of its counterpart in China. Vietnam is now the second largest supplier of textiles and clothing to the US market, but it accounted for only 6.6 percent of textiles and clothing imported from all sources in 2009, and its share paled in comparison with the 39.2 percent share held by China. To grow the industry, the Vietnam Textiles and Apparel Association (VITAS) has recommended that businesses pay more attention to increasing the value of their products, vertically integrating their textile and garment production in order to reduce the amount of imported materials, strengthening ties with US importers, and advertising their products more widely.⁷¹

GNT is one of the key economic sectors of the country with an average contribution to the total GDP of 8 to 10 percent. In 2009, ILO Better Work Vietnam recorded that the garments industry produced 300,000 knitted wear and around US\$2.15 billion of clothing.⁷²

⁶⁸ Manh, Nong Duc. "Textile and Garment Industry in Vietnam" International Financial Corporation. 20 Aug 2010. Web. 19 Oct 2011. <http://moeaitc.tier.org.tw/idic/mgz_topic.nsf/0/54f372825f4887ac4825676a002abac9>

⁶⁹ ILO. Vietnam Better Factories. "The Industry." Web. 10 Oct 2011
<<http://www.betterwork.org/sites/VietNam/English/theindustry/Pages/index.aspx>>

⁷⁰ *ibid*

⁷¹ Textile Intelligence. "Textiles and Clothing in Vietnam: Riding the Crest of a Wave." Aug 2010. Web. 17 Oct 2011. <<http://www.textilesintelligence.com/tistoi/index.cfm?pageid=3&repid=TISTOI&issueid=146&artid=1611>>

⁷² ILO. Vietnam Better Factories. "The Industry." Web. 10 Oct 2011
<<http://www.betterwork.org/sites/VietNam/English/theindustry/Pages/index.aspx>>

Exports play an important role in the sector's development with a high growth rate around 19 percent over the past ten years. 2010 was a very successful year for the Vietnamese textile and garment industry as exports reached US\$11.2 billion, an increase of around 23 percent year on year. Major importers remained USA (54%), EU (16%) and Japan (11%). This great achievement, according to sector experts' analysis, was brought by the recovery of the global economy in general, an improvement of the local enterprises' capability and particularly by recent movement of orders to Vietnam from its traditional rival, China.

Table 7. Vietnam GNT export value and Exports Growth

Year	Exports textiles and garments (US\$ million)	Exports growth (%)
2000	1892	8,3
2001	1962	3,7
2002	2752	40,3
2003	3654	32,8
2004	4386	20,0
2005	4838	10,3
2006	5834	20,6
2007	7750	23,7
2008	9082	24,8
2009	9100	25,8

Note: Vietnam does not separate garment and textile data. Therefore, the data presented here is the export for garments and textiles in Vietnam from 2000-2009.

Source: South East Asia Textile Business Review 2009 (1st edition)

II.6 Indonesia, Cambodia, and Vietnam Labor and SWOT Comparison

In 2009, Vietnam had the highest workforce in the GNT industry compared to Indonesia and Cambodia. All three countries have the similar work days set at 8 hours a day, but Cambodia and Vietnam have a more competitive work week, demanding 48 hours labor before receiving overtime. Indonesia only demands 40 before awarding overtime. From the annual average wage data, we can see that Indonesia's GNT labor average wage is US \$107.6 is 34 percent higher than Cambodia's of US \$80. Although the data for Vietnam GNT labor annual average wage is unavailable, the hourly average wage in Vietnam is US \$ 0.30, which is lower than Cambodia and Indonesian hourly average wages of US\$ 0.35 and US\$ 0.44 per hour respectively.⁷³ This

⁷³ South East Asia Business Textile Review. Textile Media Services. Keighley: Aug 2009.

difference in average wages, favorable work week, and upstream/downstream facilities can make investors more attracted to invest in Vietnam than Indonesia and Cambodia holding everything else constant.

The global downturn that started in mid 2008 had impacts on each country. Companies in Indonesia, Cambodia, and Vietnam faced reduced market orders and lower prices in comparison to the previous year. From reduced demand, some factories' operations have been temporarily suspended or closed for six to eighteen month.⁷⁴

Table 8. Indonesia, Cambodia, Vietnam, GNT Labor Facts in 2009

Description	Indonesia	Cambodia	Vietnam
Labor GNT (million)	1.34	0.3	2
Operation Hour (day)	8	8	8
Operation Hour (week)	40	48	48
Average Wage per Hour	US\$ 0,44	US\$ 0.35	US\$ 0.30
Minimum Wage per month	US\$ 80.7	US\$ 50	US\$ 37,2
Average wage annual	\$107.6	US\$ 80	N/A
Export (million US\$)	US\$ 9,261	US\$ 2,417	US\$ 9,100

Source: adopted from various data sources

The study by Gherzi Textile Organization (2004) tried to seek benchmarks for labor skills and analysis in Asian countries. The compiled data for Indonesia, Cambodia, and Vietnam shows that in all three countries, most of the labor for garment industries are females . Since each of the countries is labor abundant, the availability of workers is good. Meanwhile, there are similarities in low levels of education and skilled operators. Training for new laborers in the factories is normally only given in the form of placing them as an assistant to an experienced existing workers. Indonesia is shown to have a better implementation of in-house training facilities than Cambodia. Additionally, Indonesia and Vietnam have an International Garment Training Center (IGTC), a vocational garment training centre which give education to provide productive,

⁷⁴ Source ASEAN. "Vietnam Textile and Apparel Industry." 11 Aug 2010. Web. 24 Sept 2011. <http://sourceasean.com/wpcontent/uploads/2010/10/SourceASEAN_Vietnam_profile100811.pdf>

effective, and highly qualified workers.⁷⁵ In Cambodia, GMAC runs the Cambodia Garment Training Center (CGTC) a formal training institute located in Pnom Penh, but both of this institutes are aimed to train midlevel managers.⁷⁶ Although all three countries have managerial training centers operated by non-governmental organizations and small training centers supported by the government, industry demands many more trained laborers to increase overall efficiency and competitiveness.

Although Vietnamese data was not available for most of the criteria, in this study Vietnam shows higher levels of compliance compared to Indonesia and Cambodia.⁷⁷

Table 9. Benchmarking of Labor, Skills, and Training Facilities

Competitive Factors	Indonesia	Cambodia	Vietnam
Gender	male/female	female	male/female
Availability	1	1	1
Education Level	4	4 to 5	-
Skills	3	4 to 5	3
Training Facilities in house	4	2 to 5	-
Vocational training schools	4	4	-
Productivity	3 to 4	4 to 5	-
Absenteeism	3	2 to 3	-
Work Ethics	2	2	-
Diligence/Dexterity	3	2	3
Compliance	2 to 3	2	4

Note: 1 = excellent; 2= good; 3 = average; 4 = less than average; 5 = weak or poor

Sources: Adopted from Phase 1 Report Cambodia's Garment Industry Meeting the Challenges of the Post-Quota Environment. Ministry of Commerce and Asia Development Bank. 2004.

Strength, Weakness, Opportunities, and Threats

Based on the Source ASEAN study 2010, the textile and garment industry in Indonesia, Cambodia, and Vietnam has the same strength - an abundance of cheap labor, although Vietnam

⁷⁵ International Garment Training Center. "Fast Facts." 2011. Web. 14 Oct 2011. <<http://www.ggtc.or.id/discover-igtc/fast-facts>>

⁷⁶ ADB. "Cambodia's GARMENT Industry: Meeting the Challenges of the Post Quota Environment." October 2004. Web 15 October 2011. <<http://www.adb.org/Documents/Reports/Cambodia-Garment-Industry/CAM-Garment-Report-Final-2004.pdf>>

⁷⁷ ADB and Cambodia Ministry of Commerce. "Phase 1: Report Cambodia's Garment Industry: Meeting the Challenges of the Post-Quota Environment." Oct 2004. Web. 15 Oct 2011. <<http://www.adb.org/Documents/Reports/Cambodia-Garment-Industry/CAM-Garment-Report-Final-2004.pdf>>

has the best productivity and the lowest cost of production. Meanwhile, Indonesia's upstream and downstream production facilities is the country's distinct strength in comparison to Vietnam and Cambodia. A stable social, economic, and political environment is something that Indonesia and Vietnam share in common but Cambodia is still lacking.

All three countries have a dependence on imported materials. Rising energy costs is also an issue that Indonesia and Cambodia face. Since most GNT companies in Indonesia are owned domestically, aging machinery becomes a weakness for Indonesia for its high cost replacement issues. Meanwhile, Cambodia and Vietnam, which receive more foreign investment, do not face the same problem since foreign companies provide the needed capital to upgrade production facilities. This is one piece where the Indonesian government could assist - encouraging bank loans and easing the process for foreign direct investment into the Indonesian private sector.

Free Trade agreements, ASEAN textile hub, and tariff eliminations for ASEAN countries gives opportunities for each of the three countries. Government policy support in the garment industries also offers opportunities for future improvements. Rising costs in China also presents opportunities for each country to capture investors moving away from China. Vietnam can also benefit from their recent entry to World Trade Organization, attracting more foreign direct investment.

The fierce competition from other GNT countries such as China, Bangladesh, and India create threats for GNT industry in Indonesia, Cambodia, and Vietnam. Minimum wages and productivity issues are the two things that comparison countries need to adjust if they want to increase their share in the GNT market. The threat of stagnation due to exogenous shocks is a threat that can hamper the entire GNT industry. Specifically for Vietnam, the country needs significant amounts of private capital to operate freely if they want to improve GNT, while Indonesia needs to make sure that exchange rate risk does not slow exports.⁷⁸

⁷⁸ The Analysis is based on the table adopted from AFTEX, Source Asean Indonesia, Cambodia, and Vietnam Textile and Apparel Industry in 2010.

Table 10. SWOT Analysis for Indonesia, Cambodia and Vietnam GNT industry

	Indonesia	Cambodia	Vietnam
Strength	<ul style="list-style-type: none"> - Industry is vertically integrated, involved in supply chain from raw materials to finishing - Good relationship with major importers and retailers - Stable social, economic and political environment - Abundant labor force 	<ul style="list-style-type: none"> - Market access to the US, EU, Canada and Japan through trade agreements - Abundant cheap labor and government recognition of industry's importance in the economy - ILO independently monitors and reports on working conditions 	<ul style="list-style-type: none"> - Abundant, skillful, quick-learning workforce at relatively competitive cost - Well-organized enterprises that can produce quality, complicated styles - Good relationship with major importers and retailers, especially in the US - Stable social, economic and political environment
Weakness	<ul style="list-style-type: none"> - Aging machinery limits production and saps energy - Rising energy costs and high interest rates - Lack of supportive infrastructure - Depends almost entirely on imported cotton 	<ul style="list-style-type: none"> - Lack of skilled workers with experience in technology, fashion and management - Dependent on fabric imports, foreign investment and export demand - Rising electricity and fuel costs - Somewhat fragile labor relations 	<ul style="list-style-type: none"> - Lack of skilled workers with experience in technology, fashion and management - Too many exports dependent on imported fabric and accessories - Undeveloped branding - Weak national competitiveness
Opportunities	<ul style="list-style-type: none"> - ASEAN textile and garment development into a hub - Tariff eliminations between ASEAN nations and new ASEAN trade pacts with China offer increased options within SE Asia - Large domestic market of 240 million people - Government modernization scheme 	<ul style="list-style-type: none"> - Free trade agreements with China, South Korea and Japan ensure market access - Chinese growth and production costs ensure it will look for cheaper locations - Ability to improve efficiency through skills training, lean manufacturing, and process improvements - ASEAN integration would allow Cambodia and other countries to cooperate and produce competitively priced garments quickly. 	<ul style="list-style-type: none"> - Entry to WTO provides access to new markets and foreign investment - Tariff eliminations between ASEAN nations and new ASEAN trade pacts with China offer increased options within SE Asia and the possibility of plant relocations to Vietnam because of its cheap labor - Large domestic market of 87 million people

Threats	<ul style="list-style-type: none"> - Economies of traditional Western markets stagnant - Fierce competition from China, Bangladesh, Sri Lanka and Vietnam - Increasing international trade and technical barriers - Smuggling - Fluctuating exchange rates limit cash-on-hand dependent enterprises 	<ul style="list-style-type: none"> - Reliance on exports and foreign investment make it vulnerable to financial crises - Fierce competition from Vietnam and Bangladesh - Rising raw material prices - US and EU lifting of safeguard measures on Chinese products in 2009 coupled with US quotas on eight categories of Cambodian garments 	<ul style="list-style-type: none"> - Economies of traditional Western markets stagnant - Fierce competition from China, India and Bangladesh - Increasing international trade and technical barriers - Corruption - Ability to allow private capital to operate freely
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Source: adopted from Source ASEAN, Indonesia, Cambodia, and Vietnam Garment and Textile Industry. 2010

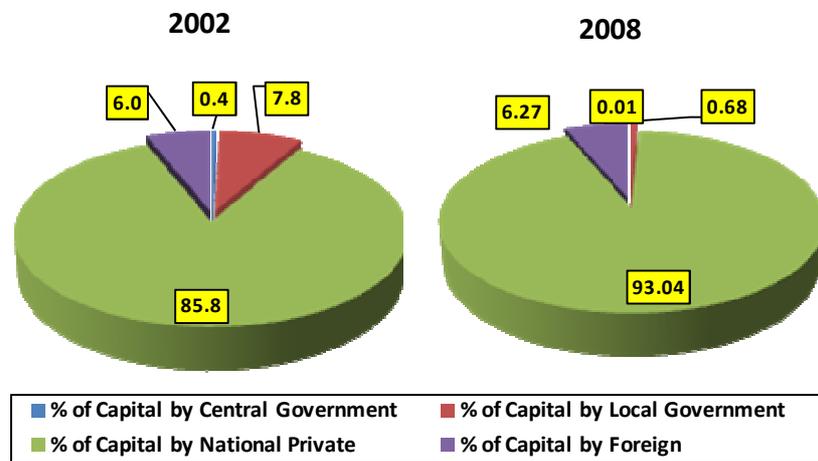
II.7 Indonesia's Garment Facts and Cost Structure

For this study, we are focusing on the garment industry in Indonesia since among the four other sectors in the GNT industry, the garment industry is the sector which is the most labor intensive. This part of the study attempts to see the cost structure of garment factories and compares them with the information given by surveys and in-depth interviews. The data used are the Annual Measurement Survey from BPS (Statistics Indonesia) from 2000-2008.

From 2002 until 2008, the ownership of garment industries in Indonesia is still dominated by private ownership which increased from 85.5% in 2002 to 92.45% in 2008. Meanwhile, the GOI's role in both central and local were declined to a very small number. Foreign ownership was valued at 6 percent in 2002 and has increased marginally in 2008 to 6.6 percent. The opposite holds true in Cambodia and Vietnam where almost all garment companies are foreign owned in Cambodia while the share of foreign companies and state owned companies is split at 50 percent in Vietnam. This condition shows that the textile industry in Indonesia is not an attractive area for foreign direct investment. Worldbank Ease of doing business (2011) argued that Indonesia's rank is still poor in terms of start-up times, legal protection and labor regulations which has a negative impact on investment.⁷⁹

⁷⁹ World Bank. *Ease of Doing Business*. 2011. Web. 29 Sept 2011. <<http://doingbusiness.org>>

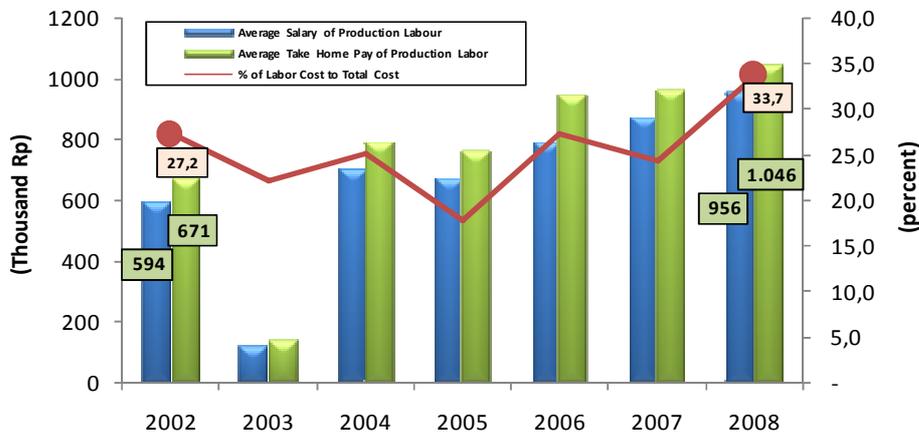
Figure 7. Indonesia's Garment Ownership composition, 2002-2008



Source: Calculated from Annual Manufacturing Survey 2002-2008, BPS Indonesia.

Labor wages in Indonesia account for 90 percent of garment production. Therefore, if there is an increase in the minimum wage, it will increase the cost of production significantly. In the period from 2002-2008, the share of labor costs to total cost has increased by 6.5 percent. In addition to the basic salary, labor cost also factor in overtime, insurance, and other benefits with that are 15% the basic salary. In 2002, the share of labor costs to total cost accounted for 27.2 percent. In 2003, the garment industry faced massive floods of cheap goods from China, thus making the garment industry temporary demotivated. From 2004 on, the share of labor cost has fluctuated, reaching 33.7 percent in 2008. Aside from the material costs, labor costs were the second component that highly affects firms' decisions in planning business expansion.

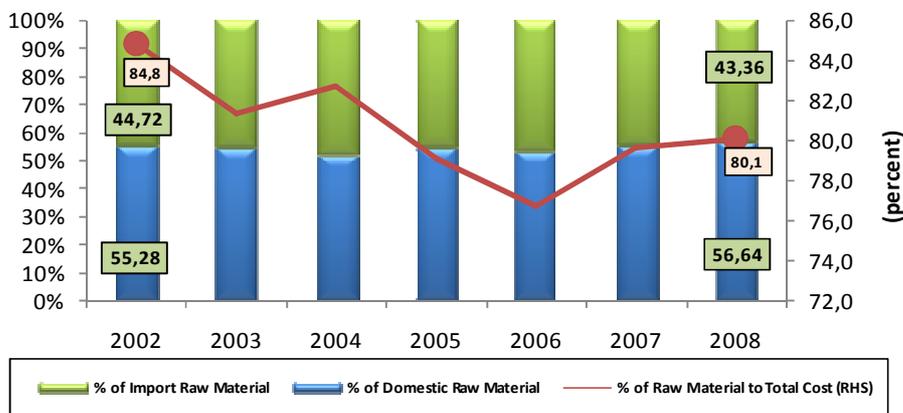
Figure 8. Labor Cost vs. Share to Total Cost



Source: Calculated from Annual Manufacturing Survey 2002-2008, BPS Indonesia.

Raw material costs pose the biggest expense to GNT company's total operational expenses. In 2002, materials accounted for 84 percent of the total cost, fluctuating down to 80.1 percent in 2010. Since Indonesia does not grow cotton domestically, one of the biggest disadvantages to the garment industry is the dependence on imported materials. Figure 7, 44 shows that 72 percent of raw materials are imported, where 55 percent is domestic materials. In 2010, the condition is not showing a significant improvement where imported inputs still holds at 43.36 percent of the total raw material cost. Therefore, exchange rate volatility significantly affects companies' total operational cost.

Figure 9. Raw Material Cost

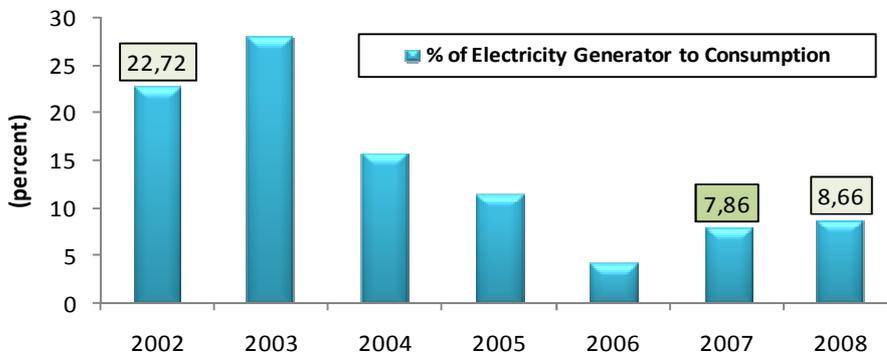


Source: Calculated from Annual Manufacturing Survey 2002-2008, BPS Indonesia.

Energy cost is an important component to the total cost. Wu (2007) stated that in 2004 the cost of energy affects around 12 per cent of total cost in this sector.⁸⁰ Our calculation using the 2002-2008 data shows that over the year the energy cost has started to decline to below 9 percent. From 2004 to 2008, companies' capacity to independently generate electricity slowly decreased with the increase of electricity infrastructure provided by PLN and other private electricity companies. To generate electricity, independent power producers would need to spend capital on fuel expenses such as gasoline and solar panels. Therefore, with improvements in public infrastructure facilities from the government, the current trend of gasoline and solar prices does not significantly affect companies' operational costs. On the other hand, the increase in electrical charges will affect the garment industry. Therefore, the government should be cautious and carefully estimate the direct impact of increasing the cost of electricity.

⁸⁰ Wu, Chongbo. 2007. "Studies on the Indonesian textile and garment industry." *Journal of Labour and Management in Development* . 7 (2007). Web 10 Oct.2011.

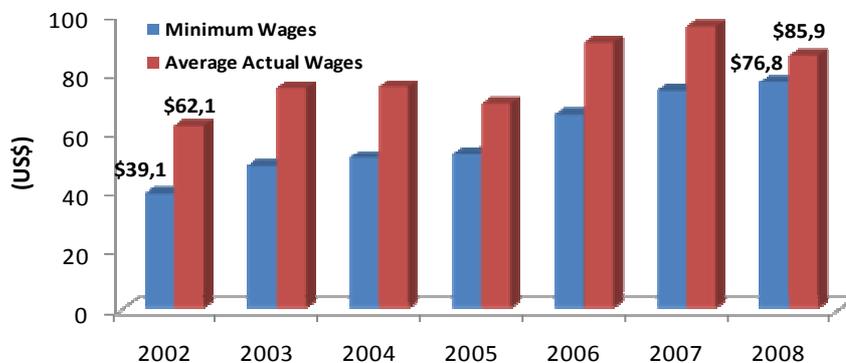
Figure 10. Electricity Consumption



Source: Calculated from Annual Manufacturing Survey 2002-2008, BPS Indonesia

On average, the rate of labor wages in textile companies is higher than the minimum wage regulated by the government. Since 2002, GNT wages are already above the average provincial minimum wage in Java Island, and are higher than the minimum wage in 2008. Average wages in GNT from 2002-2008 is US \$79 with approximately 10 percent annual increases. In 2008, the workers in the garment sectors received average wages of US\$85.9, which is above the minimum wage required of US\$76.8. This shows that textile companies in Indonesia have better capabilities to give workers compensation for their work compared to the standard living condition of Indonesian people.

Figure 11. Wages Flexibility



Source: Calculated from Annual Manufacturing Survey 2002-2008, BPS Indonesia

II.8 Conclusion

Although there was a decline in 2009 production stemming from the Global Financial Crisis, GNT industry has since recovered in 2010 and is growing in 2011. Data from Indonesia, Vietnam, and Cambodia shows similar positive trends in the GNT industry.

The exports in three countries shows a positive trend over the past 9 years which also contributes to the growth of their GDP and per capita GDP. From the macroeconomics perspectives, Indonesia is still showing leads compare to Vietnam and Cambodia, with a more stable social-economic condition. But specifically, Vietnam shows that they have higher advantages in the sense of lower wages and higher productivity compared to Indonesia and Cambodia.

Employment in GNT industries in Indonesia, Cambodia, and Vietnam also shows increasing trends over the years, although the number still not comply what the industry needs, with the average growth of labor absorption less than 7%. Therefore, we can see that all three countries are still not achieving the maximum production capacity and the garment industry is still showing itself as a promising industry for the three countries in the future.

As Indonesia is very competitive on the labor side, the fact that GOI does not significantly promote and support the garment industry, a labor intensive industry where Indonesia has a comparative advantage compared to Cambodia and Vietnam, is surprising. This condition may be driven by the fact that many Indonesians found the GNT industry to be a sunset industry or too difficult to compete in given the legislative environment. If GOI does not actively try to promote the GNT sector, it is probable that investment will move to competing countries such as Cambodia, Vietnam, Bangladesh, Pakistan, etc.

To support the GNT sector in Indonesia, the government could use either monetary or policy mechanisms to stimulate growth and increase formal sector employment. One problem the GNT industry faces is access to capital and investment. Improved access to capital could provide the industry with loans to fund operations during times of reduced demand, delays in accounts receivable, or to help innovate or expand. In short, better access to capital helps companies

stabilize balance sheets, making operations more predictable and manageable. Moreover, loans facilitate investment and allow entrepreneurs to start up new businesses, creating a competitive business environment that, overtime, increases overall efficiency and competitiveness.

Another problem for GNT industry in Indonesia is most of the companies in the industry find difficulties to receive financial assistant from banks. According to our interview with the GOI and factory executives, banks are reluctant to lend money for textiles and garments industry because they think that this sector is not very profitable.⁸¹ This is one area in which GOI could have a significant impact. By promoting the GNT industry and enacting policy aimed at stimulating the sector, lenders perceptions on the textiles and garments industry may change, resulting in extended credit that can help grow the industry. Government can also helps the industry by having trade agreements such as fiber forward agreement with USA that provides cotton inputs in exchange for garment exports could boost the overall garment industry.

Some of the programs that have been implemented by the GOI to support GNT companies are through financial assistance. The Ministry of Industry (MOI) offers a ten percent subsidy to companies who want to renew their machinery. Although beneficial, this program is especially useful for textiles companies because they use more capital intensive products and advanced machines.⁸² Although recently MOI has started to provide training programs for garment workers and MSMEs/SMEs, the GOI needs to focus on programs that will improve labor absorption in the garment industry such as building an integrated training facilities to prepared skilled workers in increasing the industry productivity. Finally, minimum wages or the severance package could be adjusted down to reduced the labor cost and make it more competitive to Cambodia and Vietnam as well as increase overall efficiency.

⁸¹ "National Textile and Garment ready to challenge China." Web. 24 October 2011.

<<http://bataviase.co.id/node/672470>>

⁸² "The Realization of Machinery Restructuring is Off the Target." Bataviase.co.id. 30 Mar 2011. Web. 24 Oct 2011.

<<http://bataviase.co.id/node/621926>>

Chapter III: Stakeholder Analysis

III.1 Stakeholders and How They Interact

The Stakeholder Analysis portrays how various groups currently view the Manpower Act 13/2003 and the potential of the garment and textile industry in Indonesia. To find out the feelings of diverse stakeholders on the Manpower Act, the SEBAR team conducted numerous interviews and utilized surveys with government ministries, the Indonesian Textiles Association, GNT companies, national labor unions, and textiles labor unions. From our interviews, we found that each stakeholder has differing viewpoints regarding the Manpower Act and how it should be designed to best benefit Indonesia. Moreover, the stakeholders have diverse interests in the textile and garment industry where concerned parties' goals are misaligned. Because of this dynamic interaction between stakeholders, a law that comprises respective interests is needed. Through cooperation and consultations, stakeholders should work together to implement optimal legislation that will most benefit the GNT industry, Indonesian workers and the overall economy.

Government

As the legislative authority, the Indonesian government plays an important role drafting, implementing, and enforcing laws aimed at benefiting the greatest number of Indonesians possible. When creating laws that will affect multiple stakeholders and large portions of society and the economy, GOI should consult with diverse parties in order to develop well-rounded, rational policies that consider Indonesia's goals, needs, and the will of the people.

In the process of drafting laws, GOI considers current issues based on societal and economic necessities and how regulations will impact citizens and businesses. The chosen piece of legislation will then be examined by the Indonesia People's Representative Council to determine its importance and potential effects. Once the topic is accepted, GOI will invite stakeholders to discuss how best to implement said legislation. Formally, GOI consults concerned ministries, relevant businesses, societal associations, labor unions, and other pertinent organizations. Although diverse stakeholders should be consulted, it has been reported that the government does not always engage every stakeholder. Consultation is necessary, not only for practical

consideration on how laws affect various institutions, but also because stakeholders will be more likely to obey the law if their inputs are considered. Compromise may take a long time because of the diverse interests of divergent stakeholders, but enacting effective law is more beneficial than fixing negative blowback.

After the implementation of new legislation, GOI will evaluate the effects of the law on society. Based on the evaluation, GOI can determine whether the law has made an improvement or worsened the situation. If GOI decides that the law needs adjustment, the government may publish a new decree aimed to glean more positive results.

In reference to the Manpower Act 13/2003, it seems like the GOI did not consider all the potential impacts of implementing such legislation. The Manpower Act is obviously skewed in favor of workers even though the means and methods of enforcement and overall welfare are not maximized. It has been reported from business organizations and individual companies that their voice has not been sufficiently listened to. Moreover, businesses have stated that they are open to work with the Indonesian government in order to improve the Manpower Act to not only advance their business, but to also better provide for laborers and speed economic growth.

Employer

The stakeholder most heavily affected by the Manpower Act is the employer because the law regulates the relation between employer and employee and what is the employer's responsibility is to workers. Employers represent all the legal companies that operate in Indonesia, both domestic and foreign. The employer's role is very important to the economy because they provide tradable goods and services, supply the needs of consumers, innovate, provide employment, and pay a significant portion of taxes. Upon the shoulders of successful business, government can use tax revenues and technology to provide social services such as infrastructure, security, healthcare, and education.

Although business plays an important part in developing society, it must also be regulated at times to ensure the safety and prosperity of citizens. Government laws can significantly impact a company's operations. Compromise must be made to ensure that businesses can continue

supplying the economy while countrymen also benefit from continued operations. Equilibrium should be found where companies efficiently conduct business while at the same time being regulated by the law. Companies demand reasonable protections in the sanctity of contracts, transparent legislation, confidence in opening and closing operations, as well as many other metrics. With a pleasant business climate, companies will more likely follow reasonable regulations, provide for employees, and support the government.

An employer's success is also related to the availability of skilled labor. Well educated and well trained populations contribute to higher efficiency levels, innovation, and motivated workers which typically contribute to increased profits. With 240 million people, Indonesia certainly has a significantly large employable workforce, but unfortunately many of working age are not exceptionally skilled. This places the burden on employers to provide employees with training before they can excel in the workplace. As the education system is administered by the government, action should be taken to improve the means of increasing human capital to supply companies with a capable workforce.

Employee

The Manpower Act was created to protect employees. The law aims to defend employees while also stipulating the worker's responsibility to the employer. Employees represent each worker at every company in Indonesia, which accounts for over 100 million people. As stated above, most of the Indonesian workforce is unskilled. Even though GOI has mandated nine years primary education to ensure that the population has basic knowledge and skills to work, access to school in Indonesia is still expensive for some while the quality of education varies per locality. As there is a significantly large population of under skilled workers in Indonesia, employment drifts to industries such as garments, agriculture, construction, and other industries that do not necessarily demand a high education.

Although an employer needs employees to operate, the interaction between the two sides can at times be contentious as they have differing interests – one side wanting the highest profit possible and the other wanting the highest wages possible. In this manner, GOI must take into account the interests between employee and employer to avoid conflict and create balance

between the two. On the one hand, if the law gives greater benefits to the employer, it will attract more investment. Conversely, it may leave the labor force dissatisfied if their needs are not considered. On the other hand, if the law gives too many benefits to the employee, it may result in decreased investments or a switch to capital intensive industries.

Unions

Because employers typically have more power than employees, the government allows workers to form labor unions to represent them in an attempt to level employer-employee relations. Labor unions can act as the voice of employees by considering their grievances and opinions on companies. Other than act as laborers' representative, labor unions also mediate disputes between employee and employer. Regarding the Manpower Act, labor unions can also protect the employee in case of unjust dismissal and settlement of severance payments.

The history of labor unions in Indonesia can trace back to the independence era, where the first labor union in Indonesia was founded in 1946. From 1946 to 2000, labor unions were repressed by ruling governments because they were associated with the communist movement and leaders wanted to maintain their grip on power. Union repression continued until the fall of Soeharto in 1998 with the advent of *Reformasi*. Since then, labor unions have started to grow, gaining more independence and protect by Law No. 21/2000 regarding Trade Unions.⁸³

Presently, there are three prominent labor confederations unifying all the labor unions in most industries in Indonesia. The Serikat Buruh Sejahtera Indonesia or Indonesian Prosperity Trade Union (SBSI) was founded in 1992, and only recognized in 1998. The SBSI currently represents some 1.7 million workers and is affiliated to the World Confederation of Labor (WCL). The Konfederasi Serikat Pekerja Seluruh Indonesia or Confederation of All Indonesian Trade Unions (KSPSI), a successor to the 1973 government-formed labor union, is the oldest trade union organization and remains the largest confederation with an estimated 4 million workers under its umbrella. Finally, the Kongres Serikat Pekerja Indonesia or Indonesian Trade Union

⁸³ "Indonesia: Labor Unions and Laws," 24 Oct. 2011
<http://internationalbusiness.wikia.com/wiki/Indonesia:_Labor_Unions_and_Laws>

Confederation (KSPI) was founded in January 2003. In Indonesia, there are more than 90 other labor federations that focus specifically on certain sectors.

III.2 Government Side

GOI's main interest should be to improve citizen welfare, the economy, environment, and future growth prospects. To realize this, a better business climate is needed because it will attract more investment, improving the nation's industry by moving into more value added activities while employing a larger portion of workers in the formal labor market. In an attempt to create an equitable business environment, GOI created the Manpower Act 13/2003 to formalize the relationship between employer and employee. This law replaced at least fifteen older laws relating to labor relations, some dating back before Indonesia's independence.⁸⁴

Reasoning for Law

After Indonesian *Reformasi*, GOI has tried to create improved labor laws that protect employees by placing the burden of social security on employers. Starting with B.J. Habibie (1998-1999), GOI began ratifying some ILO Conventions (referenced in Chapter I under General Protections) such as the freedom to create labor unions. Later, Abdurrahman Wahid (1999-2001) passed the Presidential Decree No. 83/1998 that protected labor unions within Indonesian law, which was later amended through Act No. 21/2000 regarding labor union which provides a framework for how to create a labor union. Although these laws help protect workers, both laws were criticized for being too lenient on the quality of unions, resulting in the creation of too many divergent labor unions that are incapable of collectively representing workers. Trying to further improve labor regulations, President Megawati passed the Manpower Act 13/2003.

According to the government official interviewed, "the current manpower act is already good enough to protect employees, there are already articles mandating benefits for employee, minimum wages and also severance payment for most situations." The official also admitted that the Manpower Act is in need of revision because some articles such as the Act on severance and

⁸⁴ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 192. Mar. 2003

another on payment for crimes committed outside of the company, is too burdensome on the employer, incentivizing them to find other means to get around the law.⁸⁵

The Indonesian Ministry of Manpower also realizes that there is a disconnect between unions, employers and employees. Although the ministry attempts to enact legislation that will provide the highest returns to society and the economy, political issues, such as finding consensus between APINDO (the Indonesia Employer's Association), the 90 labor federations, 3 labor confederations, and foreign investors, finding optimal solutions proves quite challenging. As each stakeholder is hesitant to give on respective standpoints, the Ministry of Manpower has commissioned university researchers and consultants to provide technical analyses and evidence-based recommendations. Moreover, the Ministry states that it holds tripartite talks with the unions, businesses, and workers. It is hoped that the research will provide conclusive evidence while the tripartite talks assist compromise between stakeholders in order to complete an effective review of the Manpower Act 13/2003 in late 2012.⁸⁶

As the Manpower Act attempts to provide some social safety nets for workers, an Indonesian social security program could help alleviate the pressure on the employer. Currently, there is a debate and ongoing pilot project on the viability of an Indonesian social security program. If passed, the program will create a Social Implementation Body (BPJS), unifying all government social security agencies; PT. Jamsostek, PT. Taspen, PT. Asabri and PT. Askes into one single agency. GOI hopes that with this new system, employees of all types will be better protected in terms of health benefits, accident insurance, unemployment insurance, retirement, and death. Although social security is a noble and necessary goal, numerous stakeholders are concerned that this unification will be difficult to control and monitor, subject to capital outflows and vulnerable to corruption.

Other than revising laws, GOI realizes the importance of transparency and clarity. Previously, the government typically passed laws and then reacted. Now, numerous officials state that

⁸⁵ "Minster of Manpower and Transmigration target the revision of Manpower Act no. 13/2003 will be started in 2011," 25 October 2011
<<http://www.djpp.depkumham.go.id/berita-hukum-dan-perundang-undangan/803-menakertrans-targetkan-revisi-uu-ketenagakerjaan-mulai-2011.html>>

⁸⁶ Comments based on interviews with the Ministry of Manpower.

respective ministries are now trying to better engage stakeholders in order to reach agreements on what is needed for new legislation to pass a good law the first time around.⁸⁷

View on Textiles and Textiles Industry

As one of the industries that best employs labor, the garments and textiles industry should be considered one of the most important sectors in Indonesia because of the exceptionally large labor force, most of which are currently employed in the informal labor sector. According to our interview with Ministry of Industry they said that “GNT is still promising because it will keep growing in the next few years.” Although it has a lot of potential and is still promising, government support toward this sector is insufficient, especially in the structure of the Manpower Act and helping GNT company gain access to capital which is important to industry survival and growth.

Further exacerbating the situation is the recent five percent import tariff placed on imported textiles and garments raw materials. Although increasing the import tariff is aimed at protecting local companies by encouraging garment companies to use more materials produced locally, in reality, the tariff hurts garment companies because the industry is still dependent on materials imported from outside Indonesia. In 2010, Indonesia imported over \$5 billion in garment raw materials.⁸⁸ Additionally, companies we interviewed said that “International buyers demand factories to use specific materials only found outside of Indonesia.” Manufacturers conclude that that this import tariff constrains already tight profit margins, thus making Indonesia a less competitive country to invest in.⁸⁹

Importance to country

According to the “Fact and Figures; Indonesia Textile Industry” booklet, released by the Ministry of Industry, GNT is one of largest employers of labor alongside agriculture, food and beverage, and cigarettes. With enough support, the garment and textiles sector could be the

⁸⁷ “Government will keep trying to revised Manpower Act no.13/2003.” 24 Oct. 2011
<<http://www.gsn-soeki.com/wouw/a000151.php>>

⁸⁸ “Government will increase Import Tariff for Machinery,” 17 Oct. 2011
<<http://www.sucofindo.co.id/?menuid=15&pubid=922>>

⁸⁹ “Government will increase Import Tariff for Machinery,” 17 Oct. 2011
<<http://www.sucofindo.co.id/?menuid=15&pubid=922>>

primary Indonesian manufacture, with great growth potential. In 2010, approximately 1.3 million people work in this sector compared to 700 thousand laborers in plastic and 500 thousand workers in footwear.⁹⁰ GNT is also one of the largest contributors to Indonesia exports abroad. In 2010, Indonesia exported over \$11 billion in product, almost 7% of Indonesia's 2010 total exports.⁹¹

In recent years, there has been a trend of industry leaving China, migrating to other countries. This shift is happening because labor costs in China are starting to increase while sourcing companies interviewed state that they want to diversify away from the largest manufacturing country of the world which maintains a level of political risk. Labor costs have been climbing approximately fifteen percent a year since 2008 while many tax preferences for foreign companies ended in 2007.⁹² As companies look to invest elsewhere, Southeast Asia has become a popular destination for GNT enterprises. This creates a unique opportunity for Indonesia to support the GNT sector to lure investors to the archipelago away from China. With its abundant labor force, Indonesia has great potential to attract investment. Factory executives as well as sourcing agencies have expressed their excitement of investing in Indonesia, if only the laws were clear and less cumbersome to the employer. Both executives and middlemen stated that Indonesia could be the most competitive and positive country to work in for middle to upper end products as the infrastructure is reasonable, the population is comparatively skilled and docile, and the workforce is abundant.

Summary of Government Views Regarding Manpower Act and Garment & Textiles Industry

- Manpower Act is already sufficient to protect employees. Already there is an article protecting benefits for employees, minimum wages, severance payments, etc.
- GOI realizes that some articles of the Manpower Act need to be revised.

⁹⁰ "Ministry of Industry try to accelerate the growth of labor intensified industry," 24 Oct. 2011

<<http://economy.okezone.com/read/2011/07/05/320/476358/kemenperin-pacu-pertumbuhan-industri-padat-karya>>

⁹¹ "Export in 2010 reached a new record," 25 Oct. 2011

<<http://bisniskeuangan.kompas.com/read/2011/02/01/14300152/Ekspor.2010.Capai.Rekor.Baru>>

⁹² "Companies brace for end of cheap made-in-China-era," 24 Oct. 2011

<<http://finance.yahoo.com/news/Companies-brace-for-end-of-apf-2437567795.html?x=0>>

- GOI must help change the current mindset of banks and domestic investors that think GNT is a sunset industry because in actuality, it is a growing industry with great potential.
- GOI can ease the process manufacturers can access financial capital
- GOI is considering a social security program that will ease the burden on the employer.

III.3 Employer Side

Employers' main interest is to continue operations and make profits. Employers are the stakeholder most affected by the Manpower Act as well as market volatility, consumer demand, changing preferences, etc. Each of these elements determine overall profitability and enterprises' capability to continue operations. Businesses always hope that GOI policy will be more business friendly which will support economic growth and employment, but there is always conflict as business and government tend to be on opposing sides in most cases.

As globalization forces companies to evolve into a wider competitive market, businesses have had to learn how to operate effectively and efficiently, under greater uncertainty. Market volatility, consumer preferences, and exogenous shocks all affect operations. Employers can only hope that the government can provide a business environment that fosters growth and global competitiveness. It is incumbent on the employer to create products that meet consumer demand while finding the talent, means and methods to operate efficiently.

Employer Reactions to the Manpower Act

Employers' reactions to the Manpower Act 13/2003 are negative, 71% of companies we surveyed said that manpower act effect their companies very negatively, with most companies experiencing operational constraints to hiring and firing and overall productivity. Primary concerns lie on the structure of severance payments, our survey showed that 100% of the companies said that severance payment is a serious problem. Indonesian severance payments are one of the most expensive in the world and it inhibits the way a company can budget for

unforeseen changes in operations.⁹³ Based on interviews with human resources department from six factories, “because severance is exceptionally expensive, many employers are reluctant to hire new workers or dismiss unproductive employees.” As severance hinders business operations, some employers attempt to find ways to avoid hiring long-term employees by outsourcing or by using fixed-term contracts. Additionally, employers have stated that some employees take advantage of the severance structure by not performing optimally because they know the employer cannot dismiss them even if they not productive or misbehave.

Another challenging piece of the Manpower Act is the fact that an employer must pay an employee’s family when the worker commits crime outside of the company.⁹⁴ This stipulation is considered ridiculous by the employer because it places a burden on the company for worker’s criminal actions unrelated to business operations. Moreover, some government services that are supposed to be free of charge, in reality, cost the company either in monetary terms, time, or administrative requirements. Numerous employers stated that they do not necessarily want any support from the government, only that they stay out of the company’s business. Companies went on to say that Indonesia would be one of the most competitive countries globally if it were not for governmental intervention.

Regarding the Manpower Act, every private stakeholder stated that it is too restrictive. Businesses and business organizations all hope that severance will be adjusted upon the review of the Act in 2012, making overall business more competitive and predictable.

Growth and Decline of GNT in Indonesia

From Figure 6 in Chapter II, although there was a decline in 2009 production stemming from the Global Financial Crisis, GNT has since recovered in 2010 and is growing in 2011. While banks and some domestic investors see the GNT as a sunset industry, employers see excellent sustainable growth potential in Indonesia as people will always demand clothes, while the

⁹³ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 156. Mar. 2003

⁹⁴ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 160. Mar. 2003

domestic consumer market, with an ever increasing middle class, will increase demand for products.

Most of the employers interviewed commented “there is so much excitement about Indonesian GNT because of the relocation of international investment away from China.” Many textiles industry and buyers from around the world are slowly leaving China because of cost increases and political risk.⁹⁵ This situation is shifting the textiles and garments industry to Southeast Asia, where Vietnam, Cambodia and Indonesia compete against each other. Although these countries compete, Indonesia has the most potential with the largest population, economy, and diversity of upstream and downstream industries. Additionally, Indonesia boasts a stable macro economy with moderate inflation, reasonable currency exchange rates, and a favorable overall balance of payments. According to some employers interviewed, “Indonesia is still more attractive for GNT compared to ASEAN countries for various reasons. In Vietnam, inflation and the cost of labor is going up too quickly, while in Cambodia, poor infrastructure, low productivity, and a dearth of natural resources make respective countries less appealing.”

According to our survey with companies in GNT, 43% said that one of the main problems of manufacturing in Indonesia is finding finance. They commented that “Bank is reluctant to give credit for us because they think GNT is sunset industry. Moreover, domestic investors are reluctant to invest in GNT industry because China can provide GNT products more cheaply than Indonesia.” This statement is substantiated by historical data that shows relatively stagnant growth within the GNT industry over the past 5 years, as we can see from figure 6.⁹⁶

The main concern of employers regarding Indonesian GNT is that the government does not actively seek to attract investment into Indonesia, leaving the other countries to excel and attract investment as companies shift outside of China.

⁹⁵ “Companies brace for end of cheap made-in-China-era,” 24 Oct. 2011

<<http://finance.yahoo.com/news/Companies-brace-for-end-of-apf-2437567795.html?x=0>>

⁹⁶ “Textile Industry is Stagnant,” 24 Oct. 2011

<<http://www.mediaindonesia.com/read/2011/01/01/193544/21/2/Industri-Tekstil-Stagnan>>

Changes in employment structure

Agriculture still employs a majority of labor in Indonesia. According to BPS in 2010, there are more than 41.49 million peoples working in agriculture sector alone.⁹⁷ Following agriculture, the workforce is steadily moving more into manufacturing alongside trade and tourism. The movement of labor outside of agriculture is typical for developing countries where educational standards and social mobility increase with development. Manufacturing and services are less physically demanding, require higher skills, and typically pay more in comparison to agriculture, which employees tend to enjoy.⁹⁸

Summary of Employer's Views Regarding the Manpower Act and Garment & Textiles Industry

- Severance payments are too expensive and significantly burden the employer while simultaneously making it more difficult to hire and dismiss employees.
- Employers want to be consulted when the GOI passes legislation that will affect business operations.
- GNT is very promising in Indonesia based on numerous factors
- There is a trend of industrial relocation away from China to Southeast Asia that could be a great opportunity for Indonesia.
- There is an increasing trend of foreign investment into Indonesian GNT, especially Korea.

III.4 Employee Side

Opposite the employer, there is the employee laboring at each company producing garments and textiles. Employee's main concern is to have a satisfying job, and sufficient income where they can provide for their families and make a reasonable living. Manufacturing employees in Indonesia typically work through a labor union to receive enhanced benefits and maintain safeguards. Employees are relatively concerned about the Manpower Act as some companies do not follow the regulations and there is little enforcement. One example of noncompliance is in

⁹⁷ "Employment at age 15 and above in each sector," 24 Oct. 2011

<http://www.bps.go.id/tab_sub/view.php?tabel=1&daftar=1&id_subyek=06¬ab=2>

⁹⁸ "Employment in agriculture is decreasing every year," 25 Oct. 2011.

<<http://www.mediaindonesia.com/read/2010/12/12/185331/4/2/Jumlah-Pekerja-di-Sektor-Pertanian-terus-Menurun>>

severance payments where many companies give severance lower than what is required in the Manpower Act. According to labor unions interviewed, “companies sometimes give reduced severance because the employee does not sufficiently understand the dynamics of the laws aimed at protecting them.” In this situation, some employees gladly accept whatever severance payment offered because they think they received the appropriate amount. With a better understanding of the Manpower Act, employees will realize their rights and imitations relating to labor.

Effect of the Manpower Act of Employment in Garments and Textiles

According to stakeholders interviewed, “employee’s primary concern on Manpower is the possibility of outsourced labor.” The Manpower Act does not demand that an employer hire all the employees permanently and allows the use of fixed term contracts indefinitely as long as the procedure is in accordance with the law. Helping the employee are international buyers that have company specific compliance requirements. Companies will demand factories maintain certain levels of full-time employment, health and safety standards, and equitable hiring processes. For example, Nike demands that a supplying factory hire all full-time employees, provide the highest possible level of comfort to employees, and have a reasonable mix of male to female employees. According to factories interviewed, “buyer demands provide for the employee, but actually burden the company because not all companies have the financial capabilities to hire their entire worker permanently with Indonesia’s severance regime.”

Outside of the outsourcing concern, employee’s are generally happy with the Manpower Act as it provides basic welfare and protections for most situations, whether in sick, arrested, taking leave, family matters, etc.

Changes in Wages and Benefits

The current manpower act does not provide the employee with stated minimum wages. Minimum wages are determined per locality. The Manpower Act only states that the employer must never pay below the minimum wage. With this article, the government attempts to ensure that employees receive a minimum living wage. Minimum wages are set up by the provincial government and they tend to increase annually, depending on inflation rates. The law also mentions that employers should have a wage structure that awards employees for seniority

through wage increases, increased severance packages, and compensation benefits. In many cases, some companies choose to contract their employees under FTCs because with this contract type, there is little accumulation of seniority based on the limited duration of the contract.

The current Manpower Act also mandates that every employer provide employees with insurance through JAMSOSTEK which gives employees basic health, accident, death and retirement insurance. With this benefit, the employee is expected to be able to work at full capacity because their welfare is protected through the Manpower Act.

Ability to Find a Job

As previously mentioned, the Manpower Act attempts to ensure that all formal sector workers have the same opportunities without discrimination to gender, race, religion, political viewpoints, and physical disability. Although this law states that every citizen is allowed to have equal opportunities, there is still discrimination in practice. For example, people have been imprisoned for political reasons, have had difficulties getting appropriate identification, or were simply discriminated against for reasons protected by the law. Discrimination also happens to people with a physical disability. Disabled people are often considered a burden or too incompetent to do their jobs, so companies will not accept these people.⁹⁹ Numerous companies have admitted that they do not employ the minimum requirement of one percent disabled workers, although they argue that the definition of “disabled” is unclear. These instances contradict the protections laid out by the Manpower Act, proving that there is insufficient enforcement and what happens in practice instead of theory.

Ability to Maintain a Job

As already mentioned above, the main concern for the employee is to maintain their job and get paid. In this aspect, the current Manpower Act attempts to protect the employee by minimizing the extent of dismissals. The employer is only allowed to fire employees under certain circumstances, and they must consult and obtain approval from the labor union at the company,

⁹⁹ “Education, will it become the rights for people with physical disability?” 26 Oct. 2011
<<http://oase.kompas.com/read/2010/07/30/03380631/PT..Akankah.Jadi.Milik.Penyandang.Cacat>>

provided that the employee is dismissed with appropriate severance payments.¹⁰⁰ In 2010 alone, there are 1,432 cases of dismissal while 16,393 employees were asked to be dismissed. This is significantly lower than 2009 where 4,879 cases were fired out of a possible 30,181 dismissal cases.¹⁰¹

Benefits Given by Manpower Act

Employees state that if followed appropriately, the current social benefit system provided by the Manpower Act is sufficient. JAMSOSTEK gives employees basic health benefits, Indonesian sick leave is stronger in comparison to most countries, while there is sufficient leave allowed for “special” circumstance. In most cases though, the term for sick leave is determined by the employer and the employee themselves during signing their working contract with the manpower act as the basis.¹⁰²

Employees also like the current severance system. They certainly benefit the most in the case of dismissal. The one complaint by employees is that severance is not enforced enough. Many employees receive reduced or no severance in the case of bankruptcy, while some employers simply take advantage of employees who do not fully understand the Manpower Act and the benefits within.

Prevalence of Outsourcing

Because of the volatility of demand in the industry and business, many employers rely on outsourcing agencies that provide a more unencumbered labor force or hire employees on FTCs. This situation is a concern for employees because the Manpower Act does not protect against this action. Moreover, the Ministry of Manpower stated that they understand why employers outsource. As of late, the Ministry does not intend to regulate the prevalence of outsourcing. One instance in which employees are taken advantage of occurs when an FTC employee’s contract ends and the company keeps them employed when they are supposed to be released for at least

¹⁰⁰ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 151-152. Mar. 2003

¹⁰¹ “The case of dismissal is decreasing in the past two years,” 26 Oct. 2011

<<http://economy.okezone.com/read/2011/05/04/320/453005/menakertrans-kasus-phk-turun-dalam-2-tahun-terakhir>>

¹⁰² Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 52 and 93. Mar. 2003

one month. Although this is illegal, often the action is accepted by both the employee and the employer because there is demand for wages and labor, respectively.

Summary of Employee's View Regarding Manpower Act and Garment & Textiles Industry

- Manpower Act already gives employees reasonable protections in wages, ability to maintain a job, benefits and severance.
- The primary concern of employees is outsourcing and FTC usage.
- Practice and theory are in conflict as all the laws outlined by the Manpower Act are not necessarily followed by each employer.
- Many employees lack the knowledge of the benefits outlined by the Manpower Act

III.5 Union side

Because employees lack the ability to individually ask for improvements and rights, the GOI allows labor unions at every company. Labor unions are expected to represent the employee with responsibility to negotiate and liaise with employers and the government. As the representative of the employee, labor unions' interests are to increase or maintain the welfare of the employee through the creation of better laws, implementing strikes to receive enhanced working conditions, and providing a forum for employees to express their concerns. In the situation where a stalemate happens because both employer and employee cannot compromise, GOI will appoint a third party mediator or will act as mediator alone.

Union View on Manpower

As the representative of employees, labor unions have a positive view on the Manpower Act. Similar to employees, labor unions' primary concern is outsourcing. Because the manpower act doesn't forbid outsourcing, labor unions see this as a threat for the employee because future employees may be given to outsourcing companies that are not apart of the union. With this as their concern, labor unions would like to revise the Manpower Act to regulate the prevalence of outsourcing. Labor unions also realize that severance payments are exceptionally high, and because it's quite high, they are afraid that employers will move their business from Indonesia which would increase unemployment numbers, hurting both the economy and society.

Manpower's Effects on Unions

The current Manpower Act is supportive of unions as the representative for employee.¹⁰³ The law protects the unions and employees alike. Because of the protections afforded to unions, employers must learn to cooperate with the labor unions to effectively employ and communicate with employees.

Summary of Labor Unions' Views Regarding Manpower Act and Garment & Textiles Industry

- Labor unions have a positive view regarding the Manpower Act.
- Unions have the same concern about outsourcing and FTCs as employees.
- Unions realize that severance payments are quite expensive.
- Unions wish employers saw the labor unions not as a threat, but as partner to mediate with employees.

III.6 Synthesis of Stakeholder Interactions for Equilibrium

Due to the number of stakeholders with their own interests, each view the manpower act differently. With many different stakeholders and each one of them with different interests, it will take significant efforts to create a law that satisfies each of them. GOI thinks the Manpower Act is already sufficient as the basis for employer and employee relations. Employers think it obstructs them to hire and dismiss their employee because the severance is too expensive. Employees like the Manpower Act if the regulations are enforced because it already gives them decent protections. Labor unions feel that the Manpower Act has given proper protections to employees and also it creates a base for labor unions to be more active in their role as mediator with employers. These divergent views have the effect of creating conflict between the government-employer-employee-labor unions. To improve the overall business environment, GOI must consult and work with each stakeholder to develop optimal legislation.

¹⁰³ Indonesia. President of Republic of Indonesia. *Act Number 13 Year 2003 Concerning Manpower*. Article 103-103. Mar. 2003

To create equilibrium for stakeholder cooperation, GOI must play an important role to mediate and find compromise between stakeholders. For example, in the creation of new law, GOI must consider each stakeholder and what is best for the overall economy and society and also ask their opinion to improve the law so it will benefit society. Employers also should not only force their demands for new laws, but also persuade the government to help them change the mindset of banks and domestic investors that think GNT as sunset industry. This way, GOI will give more support and investment to GNT industry to take advantage of current opportunities. In working with employees, the employer also should be more open and transparent toward their workers, informing them on rules and regulations and also sharing profits when business is good.

Employees also should not force demands, but work together with employer to improve productivity and profitability. Laborers should try to understand the current conditions in the GNT industry where companies are subject to market fluctuations while GOI does not provide governmental support. Employers try their best to make profit and also follow the law the best they can to provide to employees. Finally, if labor unions play their part as the representative of employees and liaison to employers, they could help create consensus. With an understanding between stakeholders, each can work in their own capacity to improve the GNT sector as a whole to benefit greater Indonesia.

Table 11: Stakeholder Matrix

	Government	Employer	Employee	Labor Union
General Opinion regarding Manpower Act	Neutral	Negative	Positive	Positive
Effect of Manpower Act	<ul style="list-style-type: none"> -Create a basis to protect employees -Formalizes employer/employee relationship -Amends previous legislation -Develops a foundation for improvement 	<ul style="list-style-type: none"> -Exceptionally expensive -Make it difficult to hire and dismiss employees -Creates budgeting issues -Indirectly lowers productivity 	<ul style="list-style-type: none"> -Gives reasonable protection in wages, ability to maintain job, benefits and severance payments -With package, dismissed workers have ample resources to survive while looking for new job 	<ul style="list-style-type: none"> -Protects labor union rights -Attempts to make labor union a partner for employer in mediation and communication with employee
Revision needed for Manpower Act	<ul style="list-style-type: none"> -Adjustment needed to find a better equilibrium between employer and employee -Can be adjusted to support investment and entrepreneurial activities 	<ul style="list-style-type: none"> -Major revisions in terms of severance, sick leave, ability to dismiss employees, criminal payments 	<ul style="list-style-type: none"> -Employees are fine with Manpower Act -Would like to see more enforcement of stipulations 	<ul style="list-style-type: none"> -Would like an article that limits the usage of outsourcing
View Regarding GNT Industry	<ul style="list-style-type: none"> -Marginally supports GNT through small trainings and subsidy for textile machinery 	<ul style="list-style-type: none"> -GNT is very promising in Indonesia; large population, good upstream/downstream facilities, reasonable infrastructure 	<ul style="list-style-type: none"> -Reasonable, GNT pays over minimum wage, provides skills trainings, stable employment compared to agriculture 	<ul style="list-style-type: none"> -Hopeful for continued growth and increased employment in the industry as garments move to Indonesia from China

Chapter IV: Recommendations

Based on the analysis on the Indonesian, Cambodian, and Vietnamese labor laws and economies, as well as interviews with Indonesian stakeholders, the SEBAR team recommends the Government of Indonesia consider six policy actions.

1. Adjust the total severance package by removing the requirement to give compensation pay when dismissed.

The Indonesian severance package is one of the most expensive in the world. Severance can be more than ten times packages awarded in Cambodia or Vietnam, depending on the reason for dismissal. Although severance legislation is meant to protect workers, it places the burden of social security on the employer, significantly increasing costs while simultaneously creating budgeting problems because companies typically cannot predict exactly when they will have to dismiss an employee.

One way in which GOI could potentially revise the severance package is by removing the requirement to give compensation pay when firing an employee. Severance is already exceptionally expensive, and requiring additional compensation frustrates employers. By removing compensation pay, GOI signals to employers that they are serious about supporting the GNT industry while marginally reducing the employer's costs and bringing down worker compensation to be more competitive, although severance would still be well above Cambodia and Vietnam. Removing compensation would pressure a laborer to look for new work more quickly than before as their benefit package for being dismissed is reduced. This is more economically efficient because idle workers do not benefit greater society.

Please reference the severance calculation in Chapter I to fully understand the calculations below. If an employee worked for five years at a company and was dismissed, compensation would change by this amount in these various circumstances:

- Serious Misconduct: Employee previously received severance of \$230.55 and would now receive \$30.07. As it was proven that an employee committed a serious infraction, said employee should not be rewarded. The reduction in severance makes economic sense.

- Non-performance: Employee previously received severance of \$922.21 and would now receive \$721.73. Although the employee still receives a reasonably large package, the employee is not excessively rewarded for not performing optimally.
- Arrest: An arrested employee's severance package would not change.
- Retrenchment: Employee previously received severance of \$1,613 and would now receive \$1,412.52. This severance package is still exceptionally high, putting economically constrained employers in a difficult situation. If the government of Indonesia could make additional amendments to severance packages, it could remove the compensation pay and consider the double severance charge on a case by case basis. If a company goes bankrupt from unfavorable global economic situations, then a dismissed employee should only receive normal severance. If a company only decided to change industry or lay off employees en masse, then they could be charged double severance.

2. Implement training programs that increase laborers' skills in GNT.

Currently, Indonesian GNT have the International Garment Training Center (IGTC), a vocational garment training centre which trains productive, effective, and highly qualified workers. This training center is aimed to train midlevel managers for GNT industry by giving them the proper knowledge needed to conduct design, sales, marketing, and also the production processes in garment factories. Although the IGTC provides managerial calibre workers, 90 percent of workers in Indonesia's garment industry are less skilled production workers. Even though managerial skills are very important to garment companies, skilled laborers directly enhance a company's overall productivity.

According to the annual manufacturing survey from the Central Statistics Agency (*BPS*), in 2002-2008, garments labor primarily consisted of laborers with high school and junior high school diplomas. This shows that most of the workers in this labor sector have the basic skills necessary to understand and operate machineries and equipments. But to work in the specific industry like garment industry, a labor needs to have special skills such as sewing, cutting, trimming, and operating garment machineries. These kind of skills are not thought in the formal education sector. Nevertheless, these specific skills are needed raise productivity and efficiency level in production capacity. According to the Ministry of Industry, in 2010 the utilization rate of

the factories are in the average of 60%, a relatively low number. A company with underskilled labor will produce lower amount of products given the same machineries compared to companies with more skilled workers.

Generally, companies with higher production volume have their own in-house training facilities where they train their worker before starting their job. This is costly to the company, while there is still a possibility that a worker might move after they received training to another factory that can offer higher wages.

Therefore, the government should implement training programs specifically targeted to garment workers to increase the productivity in the industry. A short 1-3 month course of cutting, sewing, trimming with experienced trainers could improve unexperienced workers with the skills necessary to increase their productivities in the factory. To start the program, GOI can invite workers from existing garment factories or new recruits to join a 1 month training session to increase their skills. Another way to implement this program is by having a joint cooperation with the Ministry of Industry and Ministry of Education. Both ministries can work together to develop small training centers located close to garments factories plants like in Bogor, Bandung, and Tangerang area. The government should provide training materials like sewing and cutting machines, and textile inputs similar to the ones used in the factories. This kind of training offers recent graduates an outlet to find steady, formal employment that typically pays above the minimum wage. Moreover, this specific program can increase labor absorption in the garment industry and increases productivity and efficiency.

3. Pursue fiber forward agreements with America where America sells discounted cotton to Indonesia while Indonesia ships finished products back to America duty free.

Indonesia's primary GNT export markets are American and the European Union, each of which has relatively small production facilities. Most production factories are owned and managed by multinational vendors based in Hong Kong, Taiwan, Korea and India, and the buyers' orders are filtered through brands' buying offices and agents, which are based in the same countries.

These vendor groups are constantly looking for emerging countries to invest in. Investors tend to look for countries that boast a large, experienced labor force, reasonable minimum wages, basic environmental and safety compliance, political stability, and a semblance of upstream and downstream production facilities. Indonesia has each of these factors. The one piece that is lacking is duty free status.

When brands look for alternatives to China or Vietnam, they prefer countries that can offer a duty free arrangement with the US, typically the largest importer of garments. In recent years the US has forged several regional or national duty free agreements. These agreements have had a notable impact on Asian GNT as countries that previously did not have significant garment producing facilities began to grow.

As Indonesia's primary import into GNT is cotton and America is one of the largest exporters of cotton and the largest consumer of garments, GOI should consider a fiber forward agreement with the US. A fiber forward agreement would give duty free status to garments consisting of US cotton and made from yarn and fabric that is spun and woven or knit in Indonesia. This would be beneficial to both countries and enhance overall diplomacy as the countries would be actively working on the US-Indonesian Comprehensive Partnership.

4. Decrease the length of sick leave to a maximum of six months; 100 percent wages paid for the first month, 60 percent for second and third month, 50 percent for fourth and sixth month.

Although it rarely happens, according to the Manpower Act Article 153, employers are not allowed to fire a sick employee, up to one year (twelve months), if said employee provides the employer with a doctor's letter of recommendation. Moreover, the employer must pay 100 percent wages for the first four months, 75 percent for the next four months, 50 percent for the last 4 months, and 25 percent each month the employer doesn't dismiss the worker thereafter. Prolong sick leave accompanied by comparatively high monthly payments places a significant burden on the employer, increasing unpredictable expenses. Additionally, once the employer does dismiss the employee, he/she is also responsible to pay severance.

The SEBAR team recommends GOI to reduce the period of the sick leave to six months, where the employee may be dismissed thereafter. This recommendation to shorten this period is based on the comparison with Cambodia and Vietnam which each allow only six months sick leave days. Along with a shorter period of sick leave, we also recommended lowering the payment of wages during sick leave to 100 percent of wages during first month, 60 percent for second and third month and 50 percent for fourth through sixth month. Although this payment is still less competitive than Cambodia, where employees do not have pay any wages during the fourth to sixth month of sick leave, it is more competitive than Vietnam, which pays 75% of wages during the entire six months. This recommendation for sick leave period and also payment was chosen to reduce the employer expense during employee sick leave but still give the employee appropriate income during their time absent from work.

5. Remove Article 160 from the Manpower Act that demands an employer pay a worker's family in criminal cases outside the workplace.

Article 160 (1) states that if a worker is arrested by the authorities because of a criminal case outside of the workplace, the employer does not need to pay for the worker's salary, but they still need to assist the family of the worker until he/she is proven guilty. The amount of aid given is based on the number of the family the worker has. For 1 family member, the employer should give aid 25 percent of salary, two family member the aid is 35 percent of salary, three family member the aid is 35 percent of salary, and four or more family member, the aid is 50 percent of salary. This aid should be given for six months from the first day the worker was arrested, while the employer can not fire a worker before receiving a guilty sentence up to six months.

Additionally, if the worker is proven guilty before the six months time frame, the company can fire the laborer, but must still pay compensation (outlined in Chapter I.3).

This condition is unfair and inefficient to the employer, where they still need to give money even though the worker is not working and on trial for a crime outside of work. This article can increase the cost a company faces while productivity declines with the laborer away from work. If the employee was proven guilty after six months being arrested, that means the company subsidizes criminals. Moreover, the company will need to hire a new worker as a substitute to maintain the same volume of production. Hence, the enterprise must potentially pay three

different labor costs; the first is the aid given to the family, the second - the salary of the substitute worker, the third - compensation pay once dismissed.

Therefore, we recommend to remove article 160 from the manpower act since it is unfair and unjust to subsidize criminals.

Pasal 160

(1) Dalam hal pekerja/buruh ditahan pihak yang berwajib karena diduga melakukan tindak pidana bukan atas pengaduan pengusaha, maka pengusaha tidak wajib membayar upah tetapi wajib memberikan bantuan kepada keluarga pekerja/buruh yang menjadi tanggungannya dengan ketentuan sebagai berikut :

- a. untuk 1 (satu) orang tanggungan : 25% (dua puluh lima perseratus) dari upah;
- b. untuk 2 (dua) orang tanggungan : 35% (tiga puluh lima perseratus) dari upah;
- c. untuk 3 (tiga) orang tanggungan : 45% (empat puluh lima perseratus) dari upah;
- d. untuk 4 (empat) orang tanggungan atau lebih : 50% (lima puluh perseratus) dari upah;

(2) Bantuan sebagaimana dimaksud dalam ayat (1) diberikan untuk paling lama 6 (enam) bulan terhitung sejak dari pertama pekerja/buruh ditahan oleh pihak yang berwajib.

(3) Pengusaha dapat melakukan pemutusan hubungan kerja terhadap pekerja/buruh yang setelah 6 (enam) bulan tidak dapat melakukan pekerjaan sebagaimana mestinya karena dalam proses perkara pidana sebagaimana dimaksud dalam ayat (1).

(4) Dalam hal pengadilan memutuskan perkara pidana sebelum masa 6 (enam) bulan sebagaimana dimaksud dalam ayat (3) berakhir dan pekerja/buruh dinyatakan tidak bersalah, maka pengusaha wajib mempekerjakan pekerja/buruh kembali.

(5) Dalam hal pengadilan memutuskan perkara pidana sebelum masa 6 (enam) bulan berakhir dan pekerja/buruh dinyatakan bersalah, maka pengusaha dapat melakukan pemutusan hubungan kerja kepada pekerja/buruh yang bersangkutan.

(6) Pemutusan hubungan kerja sebagaimana dimaksud dalam ayat (3) dan ayat (5) dilakukan tanpa penetapan lembaga penyelesaian perselisihan hubungan industrial.

(7) Pengusaha wajib membayar kepada pekerja/buruh yang mengalami pemutusan hubungan kerja sebagaimana dimaksud dalam ayat (3) dan ayat (5), uang penghargaan masa kerja 1 (satu) kali ketentuan Pasal 156 ayat (3) dan uang penggantian hak sesuai ketentuan dalam Pasal 156 ayat (4).

6. Promote the GNT industry and encourage investment which will increase available capital and encourage banks to increase lending to GNT manufacturers.

One problem the GNT industry faces is access to capital and investment. Improved access to capital could provide the industry with loans to fund operations during times of reduced demand, delays in accounts receivable, or to help innovate or expand. In short, better access to capital helps companies stabilize balance sheets, making operations more predictable and manageable. Moreover, loans facilitate investment and allow entrepreneurs to start up new businesses, creating a competitive business environment that, overtime, increases overall efficiency and competitiveness.

Another problem for GNT industry in Indonesia is most of the companies in the industry find difficulties to receive financial assistant from banks. According to our interviews with GOI and factory executives, banks are reluctant to lend money for textiles and garments companies because they think that the sector is not globally competitive. Without access of capital from banks, the only investment that GNT industry can rely on to expand their business is foreign investment. This is one area in which GOI could have a significant impact. By promoting the GNT industry and enacting policy aimed at stimulating the sector, GOI will help attract additional foreign investment, change lenders perceptions on the textiles and garments industry, and influence banks to loan more, helping grow the industry.

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Appendix 1 – Termination Pay

Termination Pay
UU No. 13 dated March 25, 2003

	Resignation (Paragraph 162)	Termination for Criminal Behavior (Paragraph 158)	Termination for Non-Performance (Paragraph 161)	Termination with Guilty Verdict by Court (Paragraph 160)	Termination without Cause			Termination for Long illness due to Work Accident	Termination due to Retirement Age
					A	B	C		
Severance Pay (Pesangon)	No	No	Yes (1x)	No	Yes (2x)	Yes (1x)	Not mentioned	Yes (2x)	No
Long Service Pay/Merit Pay/Reward Pay(Uang Jasa)	No	No	Yes (1x)	Yes (1x)	Yes (1x)	Yes (1x)	Not mentioned	Yes (2x)	No
Compensation Pay*	Yes (1x)	Yes (1x)	Yes (1x)	Yes (1x)	Yes (1x)	Yes (1x)	Not mentioned	Yes (1x)	Yes (1x)
Separation Pay # of warning letters required	Yes (as Company Policy) No	No No	No Yes (3x)	No No	No No	No No	No Not mentioned	No No	No No
Approval required	No	Yes (Legal Court)	Yes (P4D)	No	Yes (P4D)	Yes (P4D)	Not mentioned	No	No
Definition	(I) Voluntarily submits a letter of resignation without any conditions (II) Absent for a period of 5(five) workdays or more successively without written information and have been called by Employer 2(twice) in writing	(I) deception, stealing, or embezzlement with: 1) physically caught; or 2) admitting; 3) min 2 witnesses (II) Employer should file the case to the police as soon as the case appears (III) Termination can occur only after verdict by judge at the legal court	(I) employee has deliberately or negligently caused himself to perform his tasks improperly (II) employee is incapable of performing his tasks eventhough he has been assigned to a less demanding job (III) employee conduct violation to the provisions regulated in Working Agreement, Company's regulation or Joint Working Agreement	(I) employee is arrested due to a criminal act not reported by the employer (II) employer can terminate employee if an employee cannot continue his/her job after 6 month of the arrest (III) if the court has given verdict before the 6 month arrest period ends and the employee is guilty by court, then employer can terminate the employee	(I) employee is terminated due to change of company status/ownership or company relocation (II) mass lay off due to company closing or efficiency (III) death of employee	(I) employee resignation due to change of company status/ownership or company relocation under same agreements (II) mass lay off due to bankruptcy or force majeure (III) bankruptcy	(I) individual lay off with employee acceptance long illness, experiencing handicap due to working accident and could not conduct work after exceeding time limit of 12 months	(I) employer has registered the employee into pension program which its salary is paid up by Employer (II) employer has to pay the difference between pension benefit and 2x severance pay plus 1x service pay plus compensation pay (III) if there is no pension plan, then employer has to pay 2x severance pay plus 1x service pay plus compensation pay	
		This paragraph has been superceded by Decision of the Constitution Court No. 012/PUU- 1/2003 dated October 28, 2004							

Years of Service (y)	Severance Pay (# of month)	Service Pay (# of month)
y < 1	1	0
1 <= y < 2	2	0
2 <= y < 3	3	0
3 <= y < 4	4	2
4 <= y < 5	5	2
5 <= y < 6	6	2
6 <= y < 7	7	3
7 <= y < 8	8	3
8 <= y < 9	9	3
9 <= y < 12	9	4
12 <= y < 15	9	5
15 <= y < 18	9	6
18 <= y < 21	9	7
21 <= y < 24	9	8
y >= 24	9	10

Note: * Compensation Pay (Article 156(4)) includes:

1. Annual leave which has not yet been taken and has not yet been void
2. Fares or expenses for going home for worker/labor and their family to the place where the worker/labor is recruited
3. Compensation for housing, medical treatment and medication shall be specified 15% (fifteen percent) of the separation pay and or service pay of service period for those that has met the requirements
4. Other matters as stipulated in the Working Agreement, Company Regulation, or Joint Working Agreement

Additional Notes:

- 1) P4D = Regional Committee for Labor Dispute Settlement Under DEPNAKER
- 2) Legal Court = A Court for Crime Judgement

Appendix 2 – Survey for Textile Company (English)

Name of the Interviewee :
Name of the Company :
Position in the Company :
Contact Number :
E-mail :

The purpose of this survey is to ascertain aspects of your business related to operational, labor productivity and the effect of the Manpower Act (Act No. 13/2003). The answers to these questions will remain confidential, but will assist us in preparing a report, which describes the nature of the textile industry in Indonesia.

1. What type of business do you operate?
 - A. Garment factory (cut, make, trim)
 - B. Textile spinning factory
 - C. Textile weaving factory
 - D. Textile knitting factory

2. How long your company has been operating?
 - A. Less than a year
 - B. 1 - 5 years
 - C. 6 - 10 years
 - D. 11 - 20 years
 - E. More than 20 years

3. Where does your company buy most of the materials?
 - A. Locally (Indonesia)
 - B. Regionally (from an ASEAN countries)
 - C. Internationally (in a country beyond our ASEAN region)

4. What country purchases a majority of your product?
 - A. Domestic (Indonesia)
 - B. China
 - C. Japan
 - D. USA
 - E. Europe
 - F. Other country

5. How many employees do you have?
 - A. Less than 20
 - B. 20 - 50
 - C. 51 - 100
 - D. 101 - 250
 - E. 251 - 500
 - F. More than 500

6. How many full time indefinite/fixed term contract employees do you have?

- A. Less than 20
- B. 20 - 50
- C. 51 - 100
- D. 101 - 250
- E. 251 - 500
- F. More than 500

7. How many full time definite term contract employees do you have?

- A. Less than 20
- B. 20 - 50
- C. 51 - 100
- D. 101 - 250
- E. 251 - 500
- F. More than 500

8. How many part time employees do you have?

- A. Less than 20
- B. 20 - 50
- C. 51 - 100
- D. 101 - 250
- E. 251 - 500
- F. More than 500

9. What percentage of your factory's labor do you outsource?

- A. Less than 20%
- B. 21% until 40%
- C. 41% until 60%
- D. 61% until 80%
- E. 81% until 100%

10. Why do you outsource labor?

- A. Lower wages
- B. Cost of Severance
- C. Volatile demand for product
- D. Better quality of labor
- E. Ease of doing business

11. What is your employee's average salary per month?

- A. Rp. 500,000 – 750,000
- B. Rp. 750,000 – 1 million
- C. Rp. 1 million – 1.25 million
- D. Rp. 1.25 million – 1.5 million
- E. over Rp. 1.5 million

12. How long does the average employee work at the company?

- A. Less than 1 year
- B. 1 - 2 years
- C. 2 - 4 years
- D. 4 - 6 years
- E. 6 - 9 years
- F. More than 9 years

13. How many employees do you lose in one year on average?

- A. 1 - 5
- B. 6 - 10
- C. 11 - 20
- D. 21 - 50
- E. 51 - 100
- F. Over 100

14. How much do you have to pay to dismiss an employee on average?

- A. 1 month salary
- B. 2 months salary
- C. 3 months salary
- D. 4 months salary
- E. over 5 month salary

15. What is the breakdown of your labor costs?

- A. Wage _____
 - B. Overtime _____
 - C. Medical benefits _____
 - D. Vacation Leave _____
 - E. Severance pay _____
 - F. Other _____ (Please list).....
- 100%

16. What percentage of your factory's operating expense is attributed to each part?

- Material Cost _____
 - Labor Cost _____
 - Energy Cost (Utilities) _____
 - Transportation _____
 - Rent _____
 - Financing _____
 - Machinery _____
 - Other _____ (Please list).....
- 100%

17. How do you rank the quality of your machinery?

- A. Very poor
- B. Poor
- C. Average
- D. Good
- E. Very good

18. What was your company's average capacity utilization over the last year?

(Capacity utilization is the amount of output actually produced relative to the maximum amount that could be produced with your existing machinery and equipment and regular shifts)

- A. Less than 25%
- B. 26% - 50%
- C. 51% - 75%
- D. 75% - 100%

19. How have your sales changed over the past 5 years?

- A. Increase in revenues
- B. Revenues have stayed the same
- C. Decrease in revenues

20. By what percentage have your sales increased?

- | | | | | | |
|---------|-------|----------|-------|---------|-------|
| 0%-5% | _____ | 6%-10% | _____ | 11%-20% | _____ |
| 21%-30% | _____ | 31%-40% | _____ | 41%-50% | _____ |
| 51%-60% | _____ | 61%-70% | _____ | 71%-80% | _____ |
| 81%-90% | _____ | 91%-100% | _____ | | |

21. By what percentage have your sales decreased?

- | | | | | | |
|---------|-------|----------|-------|---------|-------|
| 0%-5% | _____ | 6%-10% | _____ | 11%-20% | _____ |
| 21%-30% | _____ | 31%-40% | _____ | 41%-50% | _____ |
| 51%-60% | _____ | 61%-70% | _____ | 71%-80% | _____ |
| 81%-90% | _____ | 91%-100% | _____ | | |

22. Has your company undertaken in the last 3 years, or plan to undertake within the next 12 months any of the following initiatives? (Check only those that apply)

Past	Future	
		Developed a new product line?
		Introduced new technology that has substantially changed the way the main product is produced?
		Opened a new production facility?
		Closed at least one existing production facility?
		Agree to a new joint venture with a foreign partner?
		Obtained a new licensing agreement?
		Outsourced a major production activity that was previously conducted in-house?
		Brought in-house a major production activity that was previously outsourced?

23. By placing a \surd , Please indicate the importance of the following indicators (Please check the response that best describes your response):

	Not important	Minimal Importance	Important	Very Important	Don't know
Labor Cost					
Material cost					
Quality of transportation infrastructure					
Cost Competitive or the value we provide					
Access to Energy (electricity, water)					
Meet international quality standards					

24. If you re-invested into your company, in what investments were they in? (Check all that apply)

- | | | | |
|--------------------|-------|---------------------------|-------|
| Equipment | _____ | Advertising and promotion | _____ |
| Training | _____ | Purchase of Services | _____ |
| Market information | _____ | Certification | _____ |
| R & D | _____ | New Facilities | _____ |
| Other (Specify) | | | |

.....

25. What is the most challenging part of manufacturing in Indonesia (choose up to 3)?
- A. Transportation
 - B. Permitting
 - C. Finding qualified laborers
 - D. Finding appropriate materials
 - E. Finding buyers
 - F. Finding financing
 - G. Energy issues
 - H. Taxes
 - I. Buying new machine

The following question is intended to determine the effect of the Manpower Act (Act No. 13/2003) to textile industry.

26. How significant of an impact does the Manpower Act (Act No. 13/2003) have on your company?

- A. Very negative impact
- B. Moderately negative impact
- C. Neutral impact
- D. Positive impact
- E. Very positive impact

27. How has the Manpower Act (Act No. 13/2003) affected your employment and dismissal strategy?

- A. Have considered moving the business based on challenges and expenses associated with this Act.
- B. Have adopted alternative employment strategies (ex. outsourcing or contracting labor)
- C. No impact – not a significant expense or challenge
- D. Has made employing and dismissing easier
- E. Other (please specify):

28. How would you like to see the Manpower Act (Act No. 13/2003) restructured?

- A. No restructuring
- B. Minimal restructuring
- C. Significant restructuring
- D. Total overhaul
- E. Support government social security program while decreasing restrictiveness of Manpower Act
- F. Other (please specify):

29. Which portion of the Manpower Act is the biggest problem for you?

- A. Severance Pay
- B. Sick leave
- C. Pay salary during suspension
- D. Pay salary/family benefits in criminal cases
- E. Long term leave after 6 years employment

30. What are your opinions / recommendations to the Manpower Act (Act No. 13/2003)?

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Appendix 3 – Survey for Textile Company (Bahasa)

Nama Interviewee :
Nama perusahaan :
Posisi dalam perusahaan :
Nomor yang bisa dihubungi:
E-mail :

Tujuan dari survei ini adalah untuk mengetahui beberapa aspek dari perusahaan anda, terutama dari sisi operasional perusahaan, produktifitas pekerja serta dampak dan pengaruh dari Undang-undang Ketenagakerjaan (UU No. 13/2003). Jawaban atas pertanyaan dibawah ini akan dirahasiakan dan tidak disebarluaskan, namun akan membantu kami dalam membuat laporan tentang situasi dan kondisi Industri Tekstil di Indonesia.

1. Perusahaan anda bergerak dalam bidang apa?
 - A. Pembuatan pakaian
 - B. Pabrik pemintalan benang
 - C. Pabrik penjahitan
 - D. Pabrik pembuatan kain

2. Sudah berapa lama perusahaan anda beroperasi?
 - A. Kurang dari 1 tahun
 - B. 1 - 5 tahun
 - C. 6 - 10 tahun
 - D. 11 - 20 tahun
 - E. Lebih dari 20 tahun

3. Darimana anda membeli sebagian besar bahan baku yang anda gunakan?
 - A. Lokal (Indonesia)
 - B. Regional (Dari Negara ASEAN)
 - C. International (Negara-negara diluar ASEAN)

4. Negara apa yang paling banyak membeli produk anda?
 - A. Dalam Negeri (Indonesia)
 - B. China
 - C. Jepang
 - D. Amerika Serikat
 - E. Eropa
 - F. Negara lainnya

5. Berapa jumlah pekerja anda?
- A. Kurang dari 20 orang
 - B. 20 - 50 orang
 - C. 51 - 100 orang
 - D. 101 - 250 orang
 - E. 251 - 500 orang
 - F. Lebih dari 500 orang
6. Berapa banyak pekerja anda yang terikat kontrak kerja dengan periode tidak tetap?
- A. Kurang dari 20 orang
 - B. 20 - 50 orang
 - C. 51 - 100 orang
 - D. 101 - 250 orang
 - E. 251 - 500 orang
 - F. Lebih dari 500 orang
7. Berapa banyak pekerja anda yang terikat kontrak kerja dengan periode tetap?
- A. Kurang dari 20 orang
 - B. 20 - 50 orang
 - C. 51 - 100 orang
 - D. 101 - 250 orang
 - E. 251 - 500 orang
 - F. Lebih dari 500 orang
8. Berapa banyak pekerja paruh waktu yang anda punya?
- A. Kurang dari 20 orang
 - B. 20 - 50 orang
 - C. 51 - 100 orang
 - D. 101 - 250 orang
 - E. 251 - 500 orang
 - F. Lebih dari 500 orang
9. Berapa banyak pekerja perusahaan anda yang anda *outsource*?
- A. Kurang dari 20%
 - B. 21% sampai 40%
 - C. 41% sampai 60%
 - D. 61% sampai 80%
 - E. 81% sampai 100%
10. Apa alasan anda melakukan *outsource*?
- A. Gaji lebih rendah
 - B. Biaya pemutusan hubungan kerja lebih rendah
 - C. Karena jumlah permintaan yang tidak stabil
 - D. Kualitas tenaga kerja lebih bagus
 - E. Memudahkan operasional perusahaan

11. Seberapa besar anda membayar gaji seorang pekerja setiap bulannya?
- Rp. 500,000 – 750,000
 - Rp. 750,000 – 1 juta
 - Rp. 1 juta – 1.25 juta
 - Rp. 1.25 juta – 1.5 juta
 - Lebih dari Rp. 1.5 juta
12. Rata-rata berapa lama seorang pekerja bekerja di perusahaan anda?
- Kurang dari 1 tahun
 - 1 - 2 tahun
 - 2 – 4 tahun
 - 4 – 6 tahun
 - 6 – 9 tahun
 - Lebih dari 9 tahun
13. Rata-rata, berapa banyak pekerja yang keluar dari perusahaan anda setiap tahunnya?
- 1 – 5 orang
 - 6 – 10 orang
 - 11 – 20 orang
 - 21 – 50 orang
 - 51 – 100 orang
 - Lebih dari 100 orang
14. Rata-rata berapa besar biaya pesangon yang anda bayarkan?
- Sebesar 1 bulan gaji
 - Sebesar 2 bulan gaji
 - Sebesar 3 bulan gaji
 - Sebesar 4 bulan gaji
 - Lebih dari 5 bulan gaji
15. Seperti apakah struktur biaya operasional perusahaan anda dalam mengupah pekerja?
- | | |
|---------------------|------------------------------|
| Gaji pokok | _____ |
| Upah lembur | _____ |
| Tunjangan kesehatan | _____ |
| Gaji selama cuti | _____ |
| Biaya PHK | _____ |
| Lainnya | _____ (Tolong sebutkan)..... |
| | 100% |

16. Seperti apakah struktur biaya yang dikeluarkan perusahaan anda dalam beroperasional?

Biaya bahan baku	_____	
Biaya gaji	_____	
Biaya listrik, air dan lainnya	_____	
Biaya transportasi	_____	
Biaya sewa	_____	
Biaya administrasi	_____	
Biaya perawatan mesin	_____	
Lainnya	_____	(Tolong sebutkan).....
	100%	

17. Menurut anda, seperti apakah kualitas mesin yang anda gunakan?

- A. Sangat buruk
- B. Buruk
- C. Cukup
- D. Bagus
- E. Sangat bagus

18. Berapa besar *capacity utilization* perusahaan anda tahun lalu?

(Capacity utilization adalah jumlah yang sudah anda produksi dibandingkan dengan jumlah maksimal yang dapat anda produksi dengan mesin dan peralatan yang sudah ada serta jumlah pekerja yang sama)

- A. Kurang dari 25%
- B. 26% - 50%
- C. 51% - 75%
- D. 75% - 100%

19. Bagaimanakah penjualan perusahaan anda dalam lima tahun terakhir?

- A. Terjadi peningkatan penjualan
- B. Tidak terjadi perubahan penjualan
- C. Terjadi penurunan penjualan

20. Berapa besar peningkatan penjualan perusahaan anda?

0%-5%	_____	6%-10%	_____	11%-20%	_____
21%-30%	_____	31%-40%	_____	41%-50%	_____
51%-60%	_____	61%-70%	_____	71%-80%	_____
81%-90%	_____	91%-100%	_____		

21. Berapa besar penurunan penjualan perusahaan anda?

0%-5%	_____	6%-10%	_____	11%-20%	_____
21%-30%	_____	31%-40%	_____	41%-50%	_____
51%-60%	_____	61%-70%	_____	71%-80%	_____
81%-90%	_____	91%-100%	_____		

22. Apakah dalam tiga tahun terakhir atau 12 bulan kedepan perusahaan anda berencana untuk melakukan beberapa hal berikut? (Silahkan beri tanda pada kegiatan yang sudah atau akan anda lakukan)

Past	Future	
		Mengembangkan produk baru?
		Menggunakan sebuah teknologi baru yang merubah proses operasional perusahaan anda?
		Membuka pabrik baru?
		Menutup salah satu pabrik yang sudah ada?
		Mengadakan perjanjian dagang baru dengan perusahaan asing?
		Memperoleh ijin dagang yang baru?
		<i>Outsource</i> salah satu kegiatan operasional yang dulu dilakukan oleh perusahaan sendiri?
		Kembali melakukan salah satu kegiatan operasional yang dulu di <i>outsource</i> ?

23. Silahkan beri tanda centang (√) sesuai dengan tingkat kepentingan masing-masing aspek (Pilih yang paling mewakili perusahaan anda):

	Tidak Penting	Cukup Penting	Penting	Sangat Penting	Tidak Tahu
Biaya gaji					
Biaya bahan baku					
Kualitas dari infrastruktur transportasi					
Harga produk atau nilai lebih yang ditawarkan					
Akses kepada listrik dan air					
Memenuhi kualitas internasional					

24. Apakah anda berniat untuk menginvestasikan atau mengembangkan aspek dibawah ini dalam perusahaan anda? (Jawaban dapat lebih dari satu)

Peralatan _____ Iklan dan promosi _____
 Pelatihan _____ Menggunakan jasa perusahaan lain _____
 Informasi pasar _____ Sertifikasi _____
 Pengembangan produk _____ Pabrik baru _____
 Lainnya (Tolong dijelaskan) _____

.....

25. Apa yang menjadi masalah utama dalam sektor manufaktur di Indonesia (pilih tiga yang menurut anda paling utama)?

- A. Transportasi
- B. Ijin usaha
- C. Mendapatkan tenaga kerja berkualitas
- D. Mendapatkan bahan baku yang sesuai
- E. Mendapatkan pembeli
- F. Mendapatkan pinjaman modal
- G. Pasokan energi
- H. Pajak
- I. Membeli mesin baru

Pertanyaan berikut bertujuan untuk mengetahui dampak dan pengaruh dari Undang-undang ketenagakerjaan (UU No. 13/2003) terhadap industri tekstil

26. Seberapa besar efek dari UU Ketenagakerjaan (UU No. 13/2003) terhadap perusahaan anda?

- A. Berdampak sangat negatif
- B. Berdampak sedikit negatif
- C. Tidak berpengaruh
- D. Berdampak sedikit positif
- E. Berdampak sangat positif

27. Bagaimanakah efek dari UU Ketenagakerjaan (UU No. 13/2003) terhadap kebijakan perusahaan anda dalam merekrut dan memecat karyawan??

- A. Berencana memindahkan lokasi usaha karena masalah dan biaya yang muncul akibat UU tersebut
- B. Merubah strategi perekrutan (melalui *outsourcing* ataupun menyerahkan kepada kontraktor lain)
- C. Tidak ada pengaruhnya, baik dalam masalah biaya maupun hambatan
- D. Membuat proses merekrut dan memecat menjadi lebih mudah
- E. Lainnya (tolong dijelaskan):

28. Apakah menurut anda UU Ketenagakerjaan(UU No. 13/2003) perlu dirubah?

- A. Tidak perlu dirubah
- B. Sedikit perubahan
- C. Perubahan besar
- D. Perombakan total
- E. Tetap menerapkan JAMSOSTEK tetapi mengurangi ketatnya beberapa butir lain dari UU.
- F. Lainnya (tolong dijelaskan):

29. Bagian manakah dari UU Ketenagakerjaan yang menurut anda menjadi masalah utama?

- A. Biaya pemutusan hubungan kerja (Pesangon)
- B. Ijin cuti sakit
- C. Pembayaran gaji selama masa skorsing pekerja
- D. Pembayaran gaji terhadap keluarga pekerja yang melakukan tindakan kriminal
- E. Cuti panjang setelah masa kerja selama 6 tahun

30. Apa pendapat dan rekomendasi anda terhadap UU Ketenagakerjaan (UU No. 13/2003)?

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