

**Asian Labor Arbitration Fairness Index: Cambodia**  
**Striving for independence, competence and fairness**

|  |  | None | Fair | Good | Pts | Comments |
|--|--|------|------|------|-----|----------|
|  |  | 0    | 1    | 2    |     |          |
| <b>A. Clear, stable and publicized law concerning dispute resolution and arbitration</b> | <ol style="list-style-type: none"> <li>1. Law of dispute resolution clearly written</li> <li>2. Law of dispute resolution reasonably stable over time</li> <li>3. Law of dispute resolution publicized and encouraged by government</li> </ol>   |      |      |      |     |          |
| <b>B. Meaningful consent, clarity and transparency of arbitral forum</b>                 | <ol style="list-style-type: none"> <li>1. Party consent to arbitral forum</li> <li>2. User access to rules of civil procedure</li> <li>3. Clear roadmap for users entering forum</li> <li>4. Published statistics of case outcomes</li> <li>5. Jurisdiction for both rights-based and interest-based disputes</li> <li>7. Party retains right to first pursue mediation</li> </ol>   |      |      |      |     |          |
| <b>C. Fundamental rights of the Party in the forum</b>                                   | <ol style="list-style-type: none"> <li>1. Emphasis on integrity of process</li> <li>2. Access to legal aid services</li> <li>3. Availability of collective actions in forum</li> <li>4. Unless consensually waived, right to appeal to labor court</li> <li>5. Acceptance of some rules of evidence in the hearing (for predictability)</li> </ol>   |      |      |      |     |          |
| <b>D. Balanced administration of forum</b>   | <ol style="list-style-type: none"> <li>1. Emphasis on integrity of process</li> <li>2. Party input to rules of civil procedure</li> <li>3. Party input to rules of case management</li> <li>4. Clear qualifications for Secretary (administrator)</li> <li>5. Clear competence of Secretary (administrator)</li> <li>6. Impartial administration of cases by staff</li> <li>7. Adequate facilities for hearing</li> <li>8. Clear timetable to hearing</li> <li>9. Reasonable (minimal) cost and fees to forum</li> <li>10. Clarity as to choice of evidence: witnesses or documents only</li> <li>11. Arbitral immunity from suit</li> </ol> |      |      |      |     |          |
|  |  |      |      |      |     |          |

|   |   | None | Fair | Good | Pts | Comments |
|---|---|------|------|------|-----|----------|
|   |   | 0    | 1    | 2    |     |          |
| <b>E. Independence of forum/avoidance of corruption</b> | <ol style="list-style-type: none"> <li>1. Absence of influence by public officials</li> <li>2. Choice of advisory or binding award by parties</li> <li>3. All training stresses impartiality and integrity</li> <li>4. Arbitrators attest to neutrality and disclose conflicts</li> <li>5. Adequate funding from state budget</li> <li>6. Option for hearing open to public</li> <li>7. Prohibition against ex-parte communications with advocates</li> <li>8. Prohibition of arbitrator acting as a party representative</li> <li>9. Staff monitors the repeat selection of arbitrators</li> <li>10. Staff monitors any procedural decisions that suggest improper influence</li> </ol>  |      |      |      |     |          |
| <b>F. Qualified and competent arbitrators</b>           | <ol style="list-style-type: none"> <li>1. Clear selection standards</li> <li>2. Substantive training with testing</li> <li>3. Annual continual training</li> <li>4. Gender diversity of roster</li> <li>5. Ethical guidelines</li> <li>6. Complaint procedure and process to remove arbitrators for cause</li> <li>7. Certain arbitrators are qualified to offer on-site mediation</li> <li>8. Presiding Arbitrator has additional training</li> <li>9. Arbitrators are compensated</li> <li>10. Forum offers to publish a professional journal of experiences</li> </ol>   |      |      |      |     |          |
| <b>G. Fair Hearing</b>                                  | <ol style="list-style-type: none"> <li>1. Location of hearing close to Claimant</li> <li>2. Reasonable allocated time for hearing</li> <li>3. Expedious setting of hearing date for statutory special cases (discharge)</li> <li>4. A formal expedited procedure for certain cases</li> <li>5. Clear method of parties to select and non-select arbitrators</li> <li>6. Odd number of arbitrators</li> <li>7. Clear burden of proof on the employer</li> <li>8. Right of panel to require production of documents</li> <li>9. Right of panel to require appearance of witnesses</li> <li>10. Arbitrator conducts fair hearing</li> <li>11. Option of panel to offer a solution to parties as basis for further mediation</li> </ol> |      |      |      |     |          |
|   |   |      |      |      |     |          |

|                         |  | None | Fair | Good | Pts | Comments |
|-------------------------|--|------|------|------|-----|----------|
|                         |  | 0    | 1    | 2    |     |          |
| <b>H. Fair Outcomes</b> | <ol style="list-style-type: none"> <li>1. Availability of remedies for claimant</li> <li>2. Written and timely awards</li> <li>3. Reasoned (explained) awards</li> <li>4. If mutual settlement occurs prior to an award, the settlement is binding in law</li> <li>5. Access for award to be entered as a final judgment in court</li> </ol> |      |      |      |     |          |

**Appreciation**

The author thanks Professor Tom Stipanowich of the Pepperdine University School of Law for creating the concept of an index in a 2012 Kansas Law Review (forthcoming), The Arbitration Fairness Index: Using a Public Rating System to Skirt the Legal Logjam and Promote Fairer and More Effective Arbitration of Employment and Consumer Disputes, and granting approval for the author to adapt it from commercial to international labor applications.

The author also thanks the Rule of Law (ROL) Project of the World Justice Project for creating the concept of a quantitative assessment index, organized around nine standards. The goal is to determine whether the country adheres to the working definition of the rule of law in practice. In 2011, the WJP index determined date findings from 66 countries.

The author also thanks Fuyong Chen for his seminal report “Striving for Independence, Competence and Fairness: A Case Study of the Beijing Arbitration Commission. The report is part of a larger study of Hybrid Dispute Resolution Mechanism and the Construction of Harmonious Society, funded by the Chinese Ministry of Education.

The author also thanks the ABA Section for Dispute Resolution for its edition of Dispute Resolution Magazine in Summer 2012: titled ADR and the Rule of Law. Also the Rule of Law and ADR in China, by James McGuire.