

Promoting Decency?

Report on the Situation of Beer Promotion Workers
in Cambodia

Kristóf Rácz & Samuel Grumiau

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Amsterdam, August 2012

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1. Executive summary

Beer promotion workers are key players in Cambodia's beer market. Today, hardly any brewery would try to sell its beers in Cambodian restaurants, bars, beer gardens and karaoke bars without paying (usually young) women who go from customer to customer promoting the beer brand she works for. The 6,000 women who are promoting beer in entertainment outlets in Cambodia are employed by the breweries and/or distributors and work alongside other staff employed directly by the outlets, such as waiters/waitresses and hostesses.

This report presents the results of research into the working conditions of beer promoters of several beer companies active on the Cambodian market. A special emphasis is laid on the wages that workers earn and whether these wages are enough to make a decent living. The breweries discussed include Attwood (the exclusive importer of Heineken beer), Cambodia Brewery Limited (CBL – selling ABC Extra Stout, Anchor, Gold Crown and Tiger beer), Cambrew Ltd (a subsidiary of Carlsberg, selling Angkor Beer, Bayon Beer, Klang Beer, Black Panther and Angkor Stout), Guinness, Bavaria Brouwerij (with the brands Bavaria and Hollandia), Thai Asia Pacific Brewery (selling the Cheers brand), Anheuser-Busch InBev (AB InBev – selling Stella, Budweiser and Beck's) and San Miguel Brewery Inc (selling the San Miguel beer brand) in Cambodia.

The report discusses the income beer promotion workers earn by analysing the concept of living wage in Cambodia, presenting actual income figures for the beer promoters working for the different beer brands and by analysing how the workers fill their wage gaps. Also, the employment status of beer promoters, their relations with customers and the alternatives they have in engaging in other types of work are handled. Furthermore, the issues of sexual harassment, prostitution and the freedom of association are discussed.

The main findings of the report are the following.

The Beer Selling Industry Cambodia (BSIC), an industry association, was established in 2006 to improve the health and safety and working conditions of beer promotion workers in Cambodia. Its Code of Conduct is being implemented among its member companies Asia Pacific Breweries, Cambodia Brewery Limited, Cambrew Ltd., Carlsberg a/s, Guinness and Heineken International. Through the implementation, improvements have been made in the beer promotion work, including awareness of workers' rights, lower alcohol consumption, less instances of prostitution and less cases of sexual harassment. It has to be noted that these improvements have mainly had their effect on beer promotion workers promoting BSIC beer brands.

Although the implementation of the BSIC Code of Conduct has improved the working conditions for those working in the beer promotion industry, there are still a significant number of issues to be dealt with to provide decent working conditions for beer promotion workers. These are listed below.

- ❑ The income of beer promotions workers is not sufficient to meet their basic needs. The vast majority of the beer promotion workers reported earning on average less than 100 USD per month, but when asked how much their basic needs are, their answers came to an average of 177 USD per month. Estimations for a living wage range from 138 USD to 281 USD.¹ To fill the wage gap, they engage in several other activities besides their jobs as beer promotion

¹ For the sources for these estimations, see paragraph 4.2.

workers: working on their day off or on public holidays, drinking with customers, getting a second job, or in a few instances even engaging in prostitution.

- Standard 1 of the BSIC Code of Conduct stipulates that every beer promotion worker should receive a fixed monthly basic salary. This is the case at Attwood, CBL and Cambrew, the situation is unclear at Guinness. There are numerous arrangements among non-BSIC members, ranging from interviewees explaining that they have never heard of basic wages paid by their brands (such as at Bavaria and Hollandia), interviewees reporting that all the workers promoting their brand are getting a basic wage (such as at Cambodia beer), and interviewees stating that there are workers in both situations (such as at San Miguel). It is often not clear for the beer promotion workers how their performance fees are calculated, and some feel cheated in the way the amounts on their pay slips are calculated at the end of the month. Some corrupt outlet owners demand money from the beer promotion workers who are earning good commissions for the sales done in their establishment.
- Since companies are obliged to pay an overtime premium on off-days, some companies (CBL and Cambrew) have often refused to give workers a shift on these days – while the workers need these to supplement their income.
- The beer promotion workers often do not dare to take their annual leave days, out of fear of losing their job or part of their income. In some cases, they are not allowed to take all their annual leave.
- Although it is forbidden by most of the breweries' codes, 82.5% of the beer promotion workers interviewed for this research are still drinking beer with customers (74% for the BSIC brands, and 96.8% for the non-BSIC brands), 80.2 % are still sitting with consumers (72.2 % in the case of workers promoting the BSIC brands, and 93.8% for those promoting non-BSIC brands). This is a direct consequence of their low income, since the main reasons they give for this behaviour are to increase the sales, to try to reach their targets and to receive tips. The need for education regarding the effects of drinking while working was also one of the conclusions of the 2010 Indochina report.²
- The companies that are members of BSIC have taken concrete steps to fight against the abuse and sexual harassment of the beer promoters, and to improve the image of these workers in society. Their initiatives have helped to reduce the intensity and frequency of aggressive behaviour, but 61% of the BSIC brands beer promotion workers interviewed have still experienced some form of disrespectful behaviour or unwanted touching in the last 12 months, compared to 79% of the workers promoting non-BSIC brands. Many still find it useless to protest when such things happen. The need for education on a zero-tolerance sexual harassment policy for all beer promoters was also one of the conclusions of the 2010 Indochina report.
- Of all the beer promotion workers who were asked if they engage in prostitution, only around 7% admitted to doing so, to supplement their low incomes, but 12.7% answered that they see other beer promoters doing it occasionally. All those employed by BSIC brands had received some form of training on HIV (which is not the case for employees of other brands). The use of condoms during paid sexual intercourse remains, however, a problem, due to the drunkenness of the worker or of the customer. The antiretroviral drugs are available for free in a number of hospitals and a network of NGO clinics, but the treatment of opportunistic infections of people living with HIV/AIDS is not, and that is a cost which is very difficult to bare for beer promotion workers.
- Several cases of violations of trade union rights (discrimination, intimidations, threats) have been found in Cambrew against members and leaders of the Cambodian Food and Service Workers' Federation (CFSWF). 21 beer promotion workers who participated into a strike led by CFSWF were sanctioned by being transferred to less popular outlets, which means they

² 'Project BSIC Project Monitoring - Final Report For BSIC, Total (January-December) 2010', Indochina Research, 2011, http://www.bsic.com.kh/documents/Final_Report_BSIC_Monitoring_Total_2010_old.pdf

lose income. This is a violation of the OECD Guidelines for Multinational Enterprises which states that a company should 'respect the right of workers employed by the multinational enterprise to have trade unions and representative organisations of their own choosing recognised for the purpose of collective bargaining, and engage in constructive negotiations'.³

- A vast majority (96.2%) of the beer promotion workers employed by BSIC brands have signed a contract, and 92.5% say they have received a copy of this contract. By contrast, only 15.6% of those employed by non-BSIC brands remember having signed a contract, and only 6.2% say they have received a copy of this contract. However, whether or not they have a contract, the majority of the beer promotion workers have only very limited knowledge of their rights. Many of them rely solely on information given by their supervisor or colleagues, which may lead to abuses.
- The negative stigma attached to the beer promotion work has been reduced, but still exists. Major obstacles for finding other work are the lack of skills and the low education levels of most beer promotion workers.

³ OECD Guidelines for Multinational Enterprises, chapter V, 1. b.

2. Introduction

About 6,000 women are promoting beer in entertainment outlets in Cambodia.⁴ Most of them wear uniforms advertising beer brands and they are active in Cambodia's bars, restaurants, beer gardens, night clubs, and karaoke bars, trying to persuade male patrons to drink these brands. Some work on commission, while others receive a monthly salary from the beer companies. Nearly all beer brands sold in Cambodia employ beer promotion workers to increase beer sales at venues. They work alongside other staff employed directly by the outlets, such as the waiters/waitresses and hostesses. Hostesses are women who welcome the customers at the entrance of an outlet, accompany them to the table and sometimes join and entertain them at the table if they request it.

A number of studies have been already carried out in recent years on the working conditions of the beer promotion workers and on the abuses committed against some of them. In 2010, two reports were published: one by SOMO (covering the results of interviews conducted by SiRCHESI in Siem Reap)⁵ and one by Indochina Research, commissioned by the Beer Selling Industry Cambodia (BSIC)⁶. BSIC is an industry body established by major breweries operating in Cambodia (Asia Pacific Breweries, Cambodia Brewery Limited, Cambrew Ltd., Carlsberg a/s, Guinness, Heineken International) with the objective of improving the health, safety and working conditions of beer promoters by setting industry standards. For more information see the BSIC Code of Conduct in the Appendix.

The objective of this research is to contribute to the improvement of the situation of beer promotion workers in Cambodia. This report aims to do this by means of sharing information on and raising awareness about the working conditions of beer promoters. A special focus is given to their income, with the objective to provide an assessment of what they really earn, and to compare this with the basic needs of a person in Cambodia (what could be considered a living wage). The report also assesses the degree of implementation of some of the key elements of the BSIC Code of Conduct adopted in 2006, as well as the respect for trade union rights.

The findings of the report are meant to be used by various stakeholders, including the beer companies themselves, establishment owners in Cambodia, Cambodian authorities, civil society organisations and trade unions in Cambodia and abroad.

This research was commissioned by SOMO, field research was done by the independent researcher Samuel Grumiau with financing from SOMO, FNV, FNV Bondgenoten, ITUC and LO Denmark.

Methodology

Research for this report consisted of desk research and field research. References to studies and reports as part of the desk research have been taken up throughout the report as footnotes. The field research for this study was carried out through interviews with 87 workers promoting or employed by the following beer brands or companies: Cambodia Brewery Limited – CBL (27 workers), Cambrew (16 workers), Attwood (8 workers), Guinness (5 workers), San Miguel (5 workers), Bavaria (2 workers), Hollandia (5 workers), Miller (4 workers), Stella (3 workers), Cambodia (4 workers), Kingdom (3 workers), Beck's's (2 workers), Budweiser (1 worker), Asahi (1 worker), Cheers (1 worker). These

⁴ Estimation provided by Ti Sophana, Human resources manager of CBL, interviewed on 29 December 2011.

⁵ 'Heineken - Overview of controversial business practices in 2009', SOMO, 2010. http://somo.nl/publications-en/Publication_3536/

⁶ 'Project BSIC Project Monitoring - Final Report For BSIC, Total (January-December) 2010', Indochina Research, 2011, http://www.bsic.com.kh/documents/Final_Report_BSIC_Monitoring_Total_2010_old.pdf

interviews were conducted in neutral environments, far from their working places, between 24 November and 31 December 2011, in Phnom Penh and Siem Reap.

Other stakeholders who were also interviewed are the following:

- ❑ Employers: Attwood (the Manager of the beer promotion workers, the Trade Marketing Manager and the Heineken brand Manager); Cambodia Brewery Limited – CBL (the General Manager and the Human Resources Manager); Beer Selling Industry Cambodia – BSIC (the Chairman, who is at the same time General Manager of CBL); Guinness (through the General Manager of Opus One Investments Limited, importer of Guinness in Cambodia).
- ❑ Unions: Cambodian Food and Service Workers' Federation – CFSWF (the President, the Vice President, other members), Cambodian Labour Confederation – CLC (the President), Trade Union Workers Federation of Progress Democracy – TUWFPD (the President).
- ❑ NGOs and international organisations: CARE Cambodia; Solidarity Association of Beer Promoter in Cambodia; Siem Reap Citizens for Health, Educational and Social Issues (SiRCHESI); Community Legal Education Center; Women's Network for Unity; Agir Pour les Femmes en Situation Précaire (AFESIP); ILO Worker Education Project; ILO HIV/Aids Focal Point; Reproductive Health Association of Cambodia (RHAC).
- ❑ Mu Sochua, Member of Cambodian Parliament, former Minister of Women Affairs.
- ❑ Two doctors specialised in HIV/Aids care in Phnom Penh, and one representative of the Ministry of Health.

It has to be noted that the beer brands or companies mentioned in this report are not the only companies which use beer promotion workers in Cambodia.

All 12 companies mentioned in this study were given the chance to review a draft version of this report. Of the all the companies, the following made use of this opportunity and provided SOMO with comments on the report: Heineken, Carlsberg, Bavaria, Diageo, AB InBev, Khmer Brewery and Asia Pacific Breweries / Cambodia Brewery Limited. These comments have been incorporated in the text of the report and in a separate chapter (Chapter 13). The other companies, namely San Miguel Corporation, SAB Miller, Asahi Breweries and Kingdom Breweries did not respond to a draft version of the report.

Structure of the report

This report is structured in the following way. First, in Chapter 3 the companies and beer brands analysed for this research are presented. Then, Chapters 4, 5 and 6 deal with the income beer promotion workers earn by analysing the concept of living wage in Cambodia, presenting actual income figures for the beer promoters working for the different beer brands and by analysing how the workers fill their wage gaps. Chapter 7 deals with the employment status of beer promoters and Chapter 8 discusses their relations with customers. Chapters 9, 10 and 11 present the issues of sexual harassment, prostitution and the freedom of association. Chapter 12 discusses the alternatives beer promotion workers have in engaging in other types of work. Chapter 13 presents beer companies' reactions to a draft version of this report. The report closes with conclusions and recommendations for various stakeholders.

3. Companies and brands analysed in this research

Workers employed by the following 12 companies have been interviewed for this research:

BSIC members

- ❑ **Attwood:** Attwood Ltd is the sole distributor of Heineken brand beer in Cambodia. As of December 2011, it employed 81 workers promoting Heineken: 46 in Phnom Penh and 35 in the rest of the country (including 12 in Siem Reap).⁷ Attwood also employs a few women to promote the Hennessy and Johnnie Walker whiskeys, although these brands are not members of BSIC.
- ❑ **Cambodia Brewery Limited (CBL)** is a brewery producing ABC Extra Stout, Anchor, Gold Crown and Tiger beer in Cambodia. Asia Pacific Breweries is with 80% the majority shareholder of CBL.⁸ Heineken has a 33.5% stake in CBL through Asia Pacific Breweries Limited (Singapore). Heineken's ownership in Asia Pacific Breweries (Singapore) is 41.9%.⁹ CBL employs about 524 beer promotion workers in Cambodia. A little less than half of them are employed in Phnom Penh, about 45 in Siem Reap, the others are scattered around Cambodia.
- ❑ **Cambrew Ltd** produces Angkor Beer, Bayon Beer, Klang Beer, Black Panther and Angkor Stout in Cambodia. Carlsberg has a 50% stake in the company. The ownership of the other 50% is unknown.
- ❑ **Guinness:** Irish beer produced by Diageo, a global alcoholic beverages company headquartered in London. The Guinness sold in Cambodia is imported by Opus One Investments Pte Ltd, and is bottled in Malaysia by Guinness Anchor Berhad (in which Diageo and its partner, Asia Pacific Breweries, have a majority share). Guinness employs about 140 beer promotion workers in Cambodia.

Non-BSIC members

- ❑ **Bavaria Brouwerij**, the Dutch brewery based in Lieshout (the Netherlands). Brands sold in Cambodia are Bavaria and Hollandia.
- ❑ **Thai Asia Pacific Brewery** from Thailand, selling the beer brand Cheers in Cambodia. Asia Pacific Breweries (Singapore) holds 36.8% of the shares of this company.¹⁰ Heineken has a 41.9% shareholding in Asia Pacific Breweries (Singapore). Heineken has a direct shareholding of 15.4% in Thai Asia Pacific Brewery.¹¹ Cheers is brewed in the city of Nonthaburi (Thailand) and is imported in Cambodia by a local distributor. Cheers will become a BSIC member as of 1 June 2012.¹²
- ❑ **Anheuser-Busch InBev (AB InBev)**, headquartered in Leuven (Belgium). Although AB InBev does not have direct operations in Cambodia, the company's brands which are sold in Cambodia are Stella, Budweiser and Beck's.

⁷ In response to a draft version of this report Heineken indicated that currently (April 2012) it employs 47 beer promotion workers in Cambodia. E-mail received 13 April 2012. For the sake of comparability with other brands, the numbers as of December 2011 are used throughout the report.

⁸ Asia Pacific Breweries Limited Annual Report 2011, p. 28.

⁹ Heineken NV Annual Report 2011, pp. 162-163.

¹⁰ Asia Pacific Breweries Limited Annual Report 2011, p. 28.

¹¹ Heineken NV Annual Report 2011, p. 163.

¹² Response of Heineken to a draft version of this report. E-mail received 13 April 2012.

- ❑ **San Miguel Brewery Inc.**, a subsidiary of San Miguel Corporation, the largest beer producer in the Philippines. The company sells the San Miguel beer brand in Cambodia.
- ❑ **SABMiller**, headquartered in London, sells the Miller brand in Cambodia.
- ❑ **Asahi Breweries**, based in Tokyo (Japan), selling the Asahi brand in Cambodia.
- ❑ **Khmer Brewery** in Phnom Penh selling the Cambodia beer brand.
- ❑ **Kingdom Breweries (Cambodia) Ltd.** in Phnom Penh selling Kingdom beer.

4. Living wage

This chapter analyses the concept of a living wage, taking into consideration several national and international laws and guidelines like the Cambodian Labour Law, Universal Declaration of Human Rights, the OECD Guidelines for Multinationals Enterprises and the International Covenant on Economic, Social and Cultural Rights. It presents several estimations on what could be regarded as a minimum wage in Cambodia. Furthermore, it discusses the question whether the minimum wage in the garment sector, the only sector which has a guaranteed minimum wage in Cambodia, should be seen as a benchmark for the beer promotion industry.

4.1. References to what a living wage is

Cambodian Labour Law

In its section on Guaranteed Minimum Wage, the Cambodian Labour Law stipulates in Article 104 that 'The wage must be at least equal to the guaranteed minimum wage; that is, it must ensure every worker of a decent standard of living compatible with human dignity'. Article 105 stipulates that 'Any written or verbal agreement that would remunerate the worker at a rate less than the guaranteed minimum wage shall be null and void'.

Unfortunately, no guaranteed minimum wage has yet been fixed in Cambodia (except in the garment sector). Nonetheless, the principle of a wage which must ensure every worker a decent standard of living compatible with human dignity has been clearly established by the Cambodian Labour Law.

Universal Declaration of Human Rights

Human dignity requires being paid wages which cover the basic needs of a worker and his/her family. On what constitutes basic needs, paragraph 1 of Article 25 of the Universal Declaration of Human Rights states that 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control'.

OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises¹³ are one of the leading global normative standards for responsible business behaviour. The Guidelines are the only multilaterally agreed and comprehensive code of responsible business conduct that governments have committed to promoting among multinationals based in or operating from OECD countries (such as Heineken and Carlsberg). The reference to the notion of basic needs is very clear in the 2011 edition of the OECD Guidelines for Multinational Enterprises:

'Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international labour standards:

a) Observe standards of employment and industrial relations not less favourable than those observed by comparable employers in the host country.

¹³ OECD, OECD Guidelines for Multinational Enterprises, 2011, OECD Publishing.
<http://dx.doi.org/10.1787/9789264115415-en>

b) When multinational enterprises operate in developing countries, where comparable employers may not exist, provide the best possible wages, benefits and conditions of work, within the framework of government policies. These should be related to the economic position of the enterprise, but should be at least adequate to **satisfy the basic needs of the workers and their families**'.

The International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights was ratified by Cambodia. In Article 7, it stipulates that:

'The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with [...] a decent living for themselves and their families in accordance with the provisions of the present Covenant'

A remuneration which provides **a decent living for a worker and his/her family is a remuneration allowing him/her to satisfy their basic needs.**

4.2. Possible benchmarks for the estimation of basic needs in Cambodia

The beer promotion workers interviewed for this research have provided an estimation of their basic needs. The average is **177 USD** per month. This average is based on the answers of all the workers who were able to provide an estimation of their basic needs, irrespective of their family situation (divorced with dependent children, married with or without children, married to a husband 'who has two wives', supporting relatives who live in the countryside, etc.).

A typical situation for a beer promoter: *'I am divorced, I live with my only child and with a friend in one room in Phnom Penh. It's not easy to live with a child in the same room as another person, but it allows me to divide the cost of the rent (30 USD) into two. I pay 10 USD per month for the electricity and the water. I send 30 to 60 USD per month to my father, who lives in a rural area. Since I decided to send my child to school, my basic needs have increased. To cover all (food, transportation costs, clothes, medical care for my child from time to time, help to my father, etc), I should find about 150 US\$ per month, so I work 7 days a week, which enables me to earn from 96 to 144 USD per month'*. Beer promotion worker at Stella, who has been employed for 5 months.

- In February 2009, a study on living wages for the garment industry was published by the Cambodia Institute of Development Study (CIDS)¹⁴ in cooperation with the Asian/Pacific part of the International Textile, Garment and Leather Workers Federation (ITGLWF). It established that the living wage of garment workers should range from at least 90 USD (if all income earners of the household contribute equally to the household expenses) to 120 USD per month (when other income earners are unable to increase their earnings). Considering the inflations of the consumer price index of 5.3% (2009), 3.1% (2010) and 5.7% (2011), an updated estimation could be living wages ranging from at least 103.26 USD to 137.69 USD per month. In the case of beer promotion workers, the higher estimation of **137.69 USD** is adopted more often since many of them are the only or main income earner of their household

¹⁴ 'Living Wage Survey for Cambodia's Garment Industry', CIDS, 2009. Available at http://www.fes.or.id/fes/download/Survey_Result_Cambodia.pdf

- (two thirds of the beer promotion workers interviewed for this research were either divorced with dependent children and/or alone and supporting parents living in the countryside).
- ❑ In an interview¹⁵, Seang Seng, the Executive Director of SABC (Solidarity Association of Beer Promoters in Cambodia)¹⁶, a NGO which supports the beer promotion workers, said that in Phnom Penh, a living wage for a beer promotion worker should be at least **150 USD**.
 - ❑ In 2010, the National Institute of Statistics (of the Ministry of Planning) released its Socio-Economic Survey 2009¹⁷. It revealed that the average household consumption amount in Cambodia was **273 USD** per month (62 USD per capita). Of this amount, 75.8% was dedicated to food, housing, water, electricity and health. The amount was three times higher in Phnom Penh than in rural areas. The consumption was 601 USD per household in Phnom Penh (131 USD per capita), 379 USD in other urban areas (86 USD per capita) and 225 USD in rural areas (52 USD per capita).
 - ❑ The Asia Floor Wage Alliance developed criteria for a living wage based on 3,000 calories of food per adult and a ratio of 1:1 between food and non-food costs. This wage provides enough for a standard family of 2 adults and 2 children. To calculate the living wage across borders, the Alliance relies on a hypothetical currency called the 'purchasing power parity' (rather than convert currencies, this parity can be used to calculate how much money is needed for a person in one country to purchase the same 'basket of goods' as a person in another country). The Asia Floor Wage Alliance has set the living wage for Cambodia to **281 USD**.¹⁸

4.3. Should the minimum wage in the garment sector be the benchmark?

When interviewed for this research about the possibility to increase the basic wage of the beer promotion workers, the BSIC Chairman and CBL General Manager, Mr Koh Tai Hong, explained¹⁹ that the benchmark used by CBL to set its wages is the amount of the minimum wage in the garment sector, since this is the only sector which has a minimum wage and since it employs a similar category of workforce (women with low education levels).

In the garment sector, the minimum wage is 66 USD: 61 + 5 USD. The 5 USD increase was added to the 61 USD minimum wage in January 2012 as a result of an earlier decision by the Prime Minister, and it is supposed to help the garment workers' pay for their healthcare expenses. However, few workers of the garment sector earn only the minimum wage. Early 2012, the secretary general of GMAC (Garment Manufacturers Association in Cambodia) reported in an interview²⁰ that most Cambodian garment workers were taking home between 120 and 150 USD a month, including overtime and bonuses.

Beer companies²¹ also emphasise that beer promotion workers only have to work 5 hours a day to get their basic income, while garment workers need to work 8 hours a day. Many workers interviewed for this research have, however, explained that they use the van provided by the company to go and

¹⁵ Interview in Phnom Penh, 30 December 2011

¹⁶ Solidarity Association of Beer Promoters in Cambodia (SABC) website, <http://sabcincambodia.blogspot.com/> (15/02/2012)

¹⁷ 'Cambodia Socio-Economic Survey 2009', National Institute of Statistics, Ministry of Planning, Phnom Penh, 2010, p. 104, available at <http://www.nis.gov.kh/nada/index.php/catalog/30>; achACT.be, 'Tribunal des Peuples au Cambodge : Salaire vital, un droit fondamental', 8 February 2012, <http://www.achact.be/news-info-40.htm> (25/02/2012)

¹⁸ M. Kozlovsk i, 'Living wage a human right', Phnom Penh Post, 9 February 2012, <http://www.phnompenhpost.com/index.php/2012020954412/National-news/living-wage-a-human-right.html> (15/03/2012)

¹⁹ Interview with Koh Tai Hong, General Manager of CBL, 28 December 2011.

²⁰ V. Maclsaac, 'Advocates call for living wage', Phnom Penh Post, 7 February 2012, <http://www.phnompenhpost.com/index.php/2012020754352/National-news/advocates-call-for-living-wage.html> (15/02/2012)

²¹ For example in Heineken's response to a draft version of this report, the company states that beer promotion 'is part-time work, the salary of a BP will not be enough to cover for all basic needs'. E-mail received 13 April 2012.

come back from the outlet (a transport which significantly increases their security). They lose a lot of time due to this for two possible reasons:

- Because they have to go to the company by van up to 1 or 2 hours before the starting time of their work.
- Because the van picks a number of beer promotion workers in various places before dropping them in their respective outlets, and the same when they drop them after work. Some workers only lose 1 hour (2 x 30 minutes) per day in this transport, which is reasonable, but many lose 2 hours and, in some cases, even 3 hours per day.

Hence, one can say that even though garment workers often have 8 hour shifts as opposed to beer promotion workers who only work 5 hour shifts, due to their long travel time by the company van, beer promoters also end up spending 7-8 hours with work and transportation together. For more information on the usefulness of the company van, see paragraph 9.2.

Moreover, another argument why the garment industry shouldn't be used as a benchmark is the fact that the minimum wage set by the garment industry is far from sufficient to live decently. For example, many live in poor housing conditions, with 3 to 4 workers (sometimes even up to 10) sharing a small rented room, with insufficient access to basic sanitary services. Also, they face excessive overtime, leading to 10- to 13-hour long working days. Furthermore, their diet often has very poor caloric content. Due to a combination of these factors, around 2,000 Cambodian garment workers fainted or collapsed during working hours in 2011²².

²² Figure provided by Bent Gehrt, Worker Rights Consortium South East Asia Field Director. See also Radio Free Asia, 'Workers Collapse at Garment Factory', 30 August 2011, <http://www.rfa.org/english/news/cambodia/collapse-08302011173016.html> (15/03/2012)

5. Income

This chapter deals with the findings of the field research conducted in Cambodia, regarding the incomes earned by the beer promotion workers employed by various beer brands. Often, the income of beer promoters is structured as follows: a basic monthly wage is supplemented by a performance incentive (i.e. a target), a yearly bonus and/or a 13th month payment and tips received during working hours.

Cambodian legislation does not specify the amount of a minimum wage for the beer promotion industry. The only sector which has a minimum wage is the garment sector. Legislation also does not stipulate the payment of a 13th month salary, although some companies do pay a 13th month.

Cambodian Labour Law deals with the payment of workers on their weekly day-off and on public holidays in the following way. If a worker works on her weekly day-off (e.g. on Sunday), she is entitled to the double amount of her daily income according to Article 139 of the Labour Law. In case of 60 USD fixed monthly basic wage, this would be around 4 USD earned on that given Sunday. If a worker works on a public holiday (e.g. the Khmer New Year in April), she is entitled to her normal daily wage.²³ In case of a 60 USD monthly income, this would be around 2 USD for that day. Also, Cambodian Labour Law says that after one year of employment, beer promotion workers are entitled to 18 days of annual leave.

5.1. The Heineken family

5.1.1. Attwood

Basic wage

According to Attwood management, the workers promoting Heineken get a monthly basic wage of between 60 USD (for inexperienced workers) and 120 USD (for the most experienced workers). Attwood management also stated that its staff would get a wage increase of 10% in 2012.²⁴ At the time of research it was unclear whether this wage increase had indeed taken place.

Out of 7 interviewed workers promoting Heineken 6 received a basic wage of 60 USD, and 1 received 70 USD (60 USD wage plus 5 USD due to seniority and another 5 USD because she is a team leader).

In a response to a draft version of this report, Heineken stated that the minimum basic wage for a new inexperienced beer promoter is 66 USD per month; the average basic wage is 92 USD per month and that the maximum basic wage is 189 USD per month.²⁵ This response seems to confirm that the proposed 10% wage increase for 2012 (see above) has indeed taken place. The company's answers for the maximum basic wages differ significantly from the findings of this research: it is unclear what sources Heineken's data are based on and which beer promoters are entitled to the maximum basic wage of 189 USD per month.

²³ Labour Arbitration Council award on Cambrew, 7 July 2011, p. 7., www.arbitrationcouncil.org/awards/A_6111_Cambrew_E.pdf

²⁴ Interview on 27 December 2011 with Kuch Sothyda, Manager of the beer promotion workers, Choeng Mengkruy, Trade Marketing Manager, and You Ang, Heineken brand Manager.

²⁵ Response of Heineken to a draft version of this report. E-mail received 13 April 2012.

In its response, Heineken also stated that the company ‘will strive for salaries adequate to at least satisfy the basic needs, but the wages should be fair within the context of Cambodia and within the context of the defined job market [...] and that [Heineken] will closely monitor if the basic salary is reasonable, taking into account the effects of inflation’.

Performance incentive

A monthly performance incentive of 15 USD may be received by the beer promotion workers who reach a sales target set by Attwood. According to Attwood management²⁶, 15 to 20% of its workers always reach this target (and get 15 USD), 80 to 85% of them ‘almost’ reach it (and get nothing). Of the 7 workers interviewed promoting Attwood, 5 had never reached their target in 2011, and 2 had reached it only once.

In a response to a draft version of this report, Heineken indicated that the incentive system should be challenging but reachable, so that if only 15 to 20% of the beer promotion workers reach their target, then the incentive system will be reviewed.²⁷

Work on public holidays and weekly days-off

According to Attwood management²⁸ and based on interviews with beer promoters promoting Attwood, on days when workers work on their weekly day-off or during public holidays, they receive an additional 4 USD per day on top of their regular wage. This is in accordance with Cambodian legislation.

Bonus and 13th month

Five of the beer promotion workers interviewed in Phnom Penh explained that they receive gifts from the company owner at the Chinese New Year, Khmer New Year and for the Pchum Ben Festival. This includes 50 to 90 USD over the three events and 3 to 8 boxes of drinks (beer, water, soft drinks). However, it is possible that this bonus is actually the 13th month bonus (see below).

The two beer promotion workers interviewed in Siem Reap mentioned a yearly bonus of 36 and 48 USD which, according to what they understood, would depend on the profits of the company. The contracts of the beer promotion workers do not mention anything about gifts or bonuses.

According to Attwood management²⁹, all the beer promotion workers receive a 13th month salary in January. Also their contracts stipulate that beer promoters are entitled to it. The 7 workers promoting Heineken interviewed in December 2011 were uncertain whether they had received a 13th month in January.

The workers are confused when asked questions about the 13th month, many of them answer that they receive bonuses at the Chinese New Year, Khmer New Year as well as for the Pchum Ben Festival (their contract allows the payment of the 13th month in two times, at the Khmer New Year and at the Pchum Ben Festival). Considering the confusion of the beer promotion workers in their answers on the 13th month, they probably mix it with the bonuses. One of the 7 beer promotion workers

²⁶ Interview on 27 December 2011 with Kuch Sothyda, Manager of the beer promotion workers, Choeng Mengkruy, Trade Marketing Manager, and You Ang, Heineken brand Manager.

²⁷ Response of Heineken to a draft version of this report. E-mail received 13 April 2012.

²⁸ Interview on 27 December 2011 with Kuch Sothyda, Manager of the beer promotion workers, Choeng Mengkruy, Trade Marketing Manager, and You Ang, Heineken brand Manager.

²⁹ Interview on 27 December 2011 with Kuch Sothyda, Manager of the beer promotion workers, Choeng Mengkruy, Trade Marketing Manager, and You Ang, Heineken brand Manager.

remembers having received 60 USD (one month of salary) on her bank account in 2 times in 2011 at festivals, which tends to confirm this hypothesis that the bonus and the 13th month are being confused.

Tips

Of the 7 workers promoting Heineken interviewed, 6 receive tips. Of those 6 workers, 4 explained that they have to sit and have drinks with customers to get the tips. They know that this is against the policy of Heineken, but said that this was their only choice if they wanted to meet basic needs. Two Heineken beer promotion workers reported that they received tips from 40 to 50 USD per month and another from 70 to 80 USD per month. To do so these 2 workers must sit every day with customers and drink an average of 5 bottles per evening. One Heineken beer promotion worker reported that she receives about 20 USD in tips every month because she sits with customers about 5 times per week. She drinks about 1 to 2 glasses a day when she sits with customers.

Total income

Five Heineken beer promotion workers were able to provide an estimation of their monthly income (without the tips and the gifts from the company owner, since these are informal incomes), resulting in an average of 74.6 USD. If we add the 13th month to their estimation, their average monthly income would be:

$$74.6 \text{ USD} + 5 \text{ USD (1 month of basic wage/12)} = 79.6 \text{ USD}$$

Adding the incentive, taking as a base the statistics on achievement of targets given by Attwood, the total income would be 79.6 USD for 80 to 85% of the Heineken beer promotion workers (who do not reach targets), and 94.6 USD for 10 to 15% of them (who reach their target every month). The statistics on achievement of targets given by Attwood are however higher than those found in this research (2 workers out of 7 reaching their target, and only once in 2011).

5.1.2. Cambodia Brewery Limited (CBL)

Basic wage

All the beer promotion workers employed by CBL receive a basic salary: 61 USD (or 81 USD for the team leaders). Regular working hours are 5.00-9.30 p.m. (a total of 27 hours a week). If they work longer than the normal working hours, they may receive an additional 10 USD for a second shift which lasts until 11.30 p.m., bringing the total hours worked per week to 37 hours. If the beer promoters also do a third shift they may receive an additional 20 USD per month. The third shift ends at 12.30 p.m., totalling 45 hours a week. It has to be noted that travel times to and from work are not calculated as working hours, although these travel times can be substantial (see below).

CBL beer promotion workers and CBL management agreed that in principle, the 18 days of annual leave to which workers are entitled to by law (after one year of employment) will not be taken, but will be paid every month (1.5 days per month, meaning around 3 USD per month) to every worker.³⁰ If a beer promotion worker wishes to take some days of annual leave, she needs to inform her supervisor in advance, and she will not receive any 'extra' money for these days (these days will be counted as unpaid leave), as it has already been calculated in the monthly amount she receives. A majority of the interviewed workers never take vacation days so as not to miss out a paid day of work.

It seems that CBL is the only company that has concluded such an agreement with its beer promotion workers.

³⁰ Interview with Sar Mora, President of CFSWF, 31 December 2011.

Performance incentive

CBL has instituted a performance incentive system. Each beer promotion worker is given a sales target to reach every month:

- ❑ If she achieves 5% above the set target, she will get an incentive of 15 USD.
- ❑ If she achieves 10% above the set target, she will get an incentive of 25 USD.
- ❑ If she achieves 15% above the set target, she will get an incentive of 35 USD.
- ❑ If she achieves 25% above the set target, she will get an incentive of 55 USD.

Most of the beer promotion workers interviewed for this research say that the targets are set high or continually increased to a point where they become unrealistic. Out of the 27 beer promotion workers employed by CBL interviewed, only 2 (7.4%) reached their targets every month, compared to 12 (44.4%) who never reached it, 6 (22.2%) who reached it once a year, 5 (18.5%) twice a year, 1 (3.7%) 3 times a year and 1 (3.7%) 5 times a year. Although not reaching the given targets does not have (negative) financial consequences for the beer promoters, many of them still try to reach the target to fill their wage gap. In an effort to reach their targets, nearly 70% of the CBL beer promoters interviewed are sitting and drinking with customers. CBL is not the only company using a target system, other companies researched for this study also make use of this system.

CBL management denies the claims that the targets are unrealistic. *'The target of every beer promotion worker is set depending on the usual sales of the outlet. If an outlet sells less beer, we may also decrease the target'*, explains Koh Tai Hong, General Manager of CBL.³¹ *'36% of our beer promotion workers are reaching their target every month and get an incentive, 64% are almost reaching it, or reach it but don't sell enough to get the [extra 5%-25%] incentive'*, says Ti Sophana, Human resources Manager of CBL.³² This, however, seems to contradict many of the testimonies given by beer promoters for this study, who say that they are often far from reaching the target.

The 27 beer promotion workers employed by CBL who were interviewed for this research expressed serious complaints about the incentive system. **All of the CBL beer promotion workers interviewed for this research were confused about the way the performance is calculated.** They are given amounts of sales to reach on the month (for instance: 40 barrels of Anchor beer, 5 barrels of ABC beer, 2 boxes of Anchor, 15 boxes of ABC and 2 boxes of Tiger), but the performance is calculated on hectolitres of beer sold, and this calculation is done in the office, far from the eyes (and understanding) of the workers. According to the workers, the pay slips provided at the end of each month mention the target bonus, but not the details on how they were calculated.

'Mid-2011, I have reached my target for the first time in the six years I have been working for CBL. I received a commission of 50 USD, which was a very good surprise, but I still don't know how they calculated that amount!', said a CBL beer promotion worker employed in Phnom Penh.

The company may claim that this confusion about the way the performance is calculated is due to the lack of education of the beer promotion workers, but when the issue is raised by every one of the 27 workers we interviewed, it indicates a serious problem in the communication between CBL and the workers. The lack of clarity on the way the income may be generated is not in line with Article 112 of the Cambodian Labour Law, which states that:

'The employer must take measures to inform the workers in a precise and easily comprehensible fashion of:

³¹ Interview with Koh Tai Hong, General Manager of CBL, 28 December 2011.

³² Interview with Ti Sophana, Human resources Manager of CBL, 29 December 2011.

- a) The terms regarding wage that apply to the workers before they are assigned to a job or at any time that these terms change.
- b) The items that make up their wage for every pay period when there is a change to the items’.

A few beer promotion workers believe they are cheated in the way the amount of beers they sell is registered by CBL. Some say they do not dare to ask to the owner of their outlet for a statement of the amount of beers they sell, and in some cases these owners do not seem to keep such records. A more experienced worker, however, stated that when she is sure to have sold more than recorded, she complains to CBL and the amount is corrected, but she believes most workers never take the trouble (or have the capacity) to do those checks. *‘But the sales by the outlet owners are not the only element to take into consideration for the calculation of the amounts sold by the workers, since sales also take place when the worker is absent’*, according to Koh Tai Hong, General Manager of CBL³³. *‘To avoid confusions, we demand that each beer promotion worker signs a document recording the amount of beers she sold every day’*. Some of the workers interviewed have indeed mentioned signing such document, but some of them remain doubtful on its accuracy.

Work on public holidays and weekly days-off

The CBL beer promotion workers who work during their weekly day-off used to get 100% of the wage they would get on a normal day (about 2 USD per day). However, since the success of the strike led in 2011 by the Cambodian Food and Service Workers’ Federation (CFSWF) in Cambrew (see paragraph 11.1), CBL has also adapted the wage paid to the beer promotion workers who work on their weekly day-off or on public holidays. They are now paid about 4 USD instead of 2 USD.³⁴ Two issues have to be reported regarding the payment of the work on off-days and holidays:

Since this increase from 2 to 4 USD came into effect, the majority of the beer promotion workers interviewed say that it has become difficult to be allowed to work on those days, although they would like to do it to increase their income.

‘When CBL made it more difficult for us to work on days off and earn the extra income allocated on that day, I could not earn more than 70 to 75 USD per month, which is not enough to cover my basic needs, so I have chosen to resign and work for Cambodia Beer’, explained a 21-year-old beer promoter.

At the time of research (December 2011), CBL did not yet reimburse the additional 2 USD per off-day worked from 2007 to 2010, which was demanded by an award of the Arbitration Council³⁵ of 7 July 2011. However, according to CBL, the payments of the missing amounts have been made in April 2012.³⁶

Bonus and 13th month

At the Khmer New Year, the CBL beer promotion workers who worked more than 3 months in the company get a bonus of 25 USD (some workers interviewed remember having received only 20 USD), and some also report having received one box of beer.

Beer promoters of CBL do not get a 13th month salary.

³³ Interview with Koh Tai Hong, General Manager of CBL, 28 December 2011.

³⁴ According to CBL, the wage raise for work on weekly days-off from 2 USD to 4 USD has taken place before the strike led by CFSWF. Response of Asia Pacific Breweries / CBL to a draft version of this report. E-mail received 20 July 2012.

³⁵ The Arbitration Council is a tripartite body that fills the role of employment tribunals, which have not yet been introduced in Cambodia.

³⁶ Response of Asia Pacific Breweries / CBL to a draft version of this report. E-mail received 20 July 2012.

Tips

Seventeen beer promotion workers answered questions on the amount of tips they received. Their answers show a clear link between the amount of tips received and the number of times they sit and drink with customers (although this is forbidden by the CBL policy):

- ❑ Four answered that they never received any tips (and never sit or drink with customers).
- ❑ Four answered that they received from 0 to 10 USD per month (they sit from 0 to 2-3 times a month with customers, and drink less than 1 glass of beer per week at work).
- ❑ Six answered that they received from 15 to 30 USD per month (they sit with customers from 0 to 2-3 times a week, and up to every day for one getting 20 to 30 USD in tips per month. They drink from 0 to 2 glass of beer when they sit with customers, and 2 to 3 bottles a day for the one getting 20 to 30 USD of tips per month).
- ❑ Two answered that they received from 40 to 70 USD per month (they sit 2-3 times a week with customers, drink about 2 bottles of beer every day they sit).
- ❑ One answered that she received from 80 to 100 USD per month (she sits 2-3 times per week, drinks 1 to 6 glasses of beer per day she sits with customers).

Total income

Here are the data of the 19 CBL beer promotion workers who were able to provide an estimation of their monthly income (without the tips). It has to be noted that due to their confusion on incentive calculation, some beer promoters also included the incentive amount received into the amounts mentioned below, which means that basic wages (i.e. without the incentive bonus) are actually lower than reported.

- ❑ 16 reported earning between 74 and 87 USD a month
- ❑ 2 reported earning between 87 to 107 USD a month
- ❑ 1 reported earning between 87 and 127 USD a month

The case of a Cheers beer promotion worker

Only one worker promoting Cheers was interviewed during this research. Although she has worked for two years for this brand, **she does not have a contract** and is not provided a uniform. She does not receive a basic wage, so her **entire income depends on commissions** and there are no limits on the number of hours or days she has to work. She gets paid 8 USD per box of Cheers sold. To sell the beer, she sits with customers 4 to 5 times per week, and drinks an average of 5 to 15 bottles per day, which causes her to become inebriated. **Her own consumption (which is paid for by the customer) represents 30 to 50% of her sales.**

According to her own estimation, she earns an average of 80 to 100 USD per month, up to 170 USD in good months with high volumes. She gets paid by exchanging the caps of the bottles sold at the office of the distributor. Since she sits and drinks with customers, she also receives an average of 100 USD in tips. By working on commission for a beer which is far from being the most popular, she faces **a lot of pressure from customers who demand sexual favours in exchange for buying her beer. She engages in prostitution after working hours about 10 times a month.**

Cheers is brewed by Thai Asia Pacific Brewery, in which Heineken has a shareholding of 15.4%.

5.2. Cambrew

Basic wage

In Phnom Penh, the majority of the Cambrew beer promotion workers receive a low basic wage of around 50 USD, but some have the possibility to earn a higher income due to commissions. A minority

of the workers have a fixed wage of 70 USD per month. Most of those interviewed for this research mentioned they may receive 2 to 2.5 USD per barrel once they reach the target of 18 barrels a month.

In Siem Reap, all the Cambrew beer promotion workers interviewed were getting a fixed wage (70 USD).

In response to a draft version of this report³⁷, Carlsberg indicated that as of 1 January 2012, Cambrew beer promoters working at outlets receive a basic wage of 50 USD/month, which seems to confirm current research findings. The company also indicated that function beer promoters (who serve events and functions) receive a fixed monthly basic wage of 80 USD.

Performance incentive

Some workers reported they might get an incentive of 20 USD if they would sell also in a month 20 boxes of a brand which is not Angkor (some mentioned Angkor Stout, others Black Panther), but that they never reached it.

Some beer promotion workers employed on a commission basis by Cambrew reported **cases of corruption**, since the establishment owners ask them for money when they sell a lot of beer during a month. A worker employed since more than 8 years in Phnom Penh reported: *'In 2010, I was working in a place where I was able to earn from 300 to 500 USD a month. The owner wanted me to give him 50 USD. I refused, so he asked my supervisor to send me to another establishment, which the supervisor did. I denounced this corruption to the supervisor, but he answered I should have agreed to stay in a place which provides a good income. I think that some supervisors are also corrupted, take money from beer promotion workers to put them in the busiest places'*.

Another beer promotion worker, employed for 4 years by Cambrew, said: *'I have to give 3% of my income to the owner of the restaurant where I work. When I earn 100 USD, I give him 3 USD. If I don't pay, he will report to Cambrew that I have bad behaviour and I'll be moved to a less busy place, so my income will drop. The supervisor is well aware of this situation'*.

In response to a draft version of this report³⁸, Carlsberg stated that the company is aware of the situation of some corruption cases and that the company has initiated an investigation into this matter. Also, that Cambrew is currently evaluating the possibilities of how to ensure that beer promoters have an open access to report such cases to the company without being sanctioned by outlet owners.

Some beer promotion workers employed by Cambrew also reported similar issues as encountered in CBL:

- ❑ Of the Cambrew workers interviewed, 25% believe they are **cheated in the way the commissions are calculated**. Some of them receive from the outlets a document recording the amount of beers they sold, and when they compare it with what they are paid by Cambrew at the end of the month, they believe that the calculation is not fair, but do not dare to protest. Others do not receive such documents from the outlets, but do not dare to ask for them.
- ❑ Some workers reported a **lack of clarity on their income**. *'The management of Cambrew is not communicating well with us. When we were reimbursed 300 USD after the strike (see below), they didn't tell us what this amount exactly represented. They also tell us that if we work hard, we will get 60 USD at the end of the year, but sometimes we are told we could also have this amount if we don't take our 18 days of annual leaves'*, explained a beer promotion worker employed (with a fixed wage) since more than 3 years in Siem Reap.

³⁷ Response of Carlsberg to a draft version of this report. E-mail received 17 April 2012.

³⁸ Response of Carlsberg to a draft version of this report. E-mail received 17 April 2012.

Work on public holidays and weekly days-off

In July 2011, following a complaint by the union CFSWF, a ruling by the Arbitration Council required Cambrew to pay its beer promotion workers double the amount of their daily wage when working on their weekly day-off (Cambrew was only paying 100% of their daily wages for overtime work as opposed to 200% required by Cambodian labour law). The union launched a strike to push Cambrew to respect the Arbitration Council award. The Cambrew beer promotion workers are now paid about 4 USD instead of 2 USD. However, since this increase, the majority of the workers interviewed say that Cambrew usually **does not allow them to work on those days anymore**, although they would like to do it to increase their income.

When working on public holidays, Cambrew beer promotion workers reported that they were receiving 200% of their daily wage. The same applies for beer promotion workers at Guinness and Attwood.

Bonus and 13th month

Most of the 16 Cambrew beer promotion workers interviewed told they were receiving 50 to 60 USD at the Khmer New Year (+ 1 box of beer and 1 box of soft drink).

During field research no information was obtained on whether beer promoters at Cambrew get a 13th month salary or not. However, in a response to a draft version of this report³⁹, Cambrew indicated that all their beer promoters get a 13th month salary, which is paid out at the end of March, before the Khmer New Year.

Tips

The Cambrew workers interviewed received an average of 15 USD a month on tips.

Total income

Of 8 Cambrew beer promoters working with a fixed wage, none of them reported a total income higher than 80 USD per month (it reaches that level when they can work on public holidays or days off).

Of the 6 Cambrew beer promotion workers who get a small basic wage and commissions and gave an estimation of their income in the second part of 2011:

- ❑ Three answered they earn from 80 to 90 USD a month since they have been transferred to quiet outlets as a 'punishment' for their participation in the CFSWF strike (before, they were earning from 100 to 180 USD per month).
- ❑ One is only earning 50 USD per month since July (130 USD in another outlet before).
- ❑ One is earning from 100 to 140 per month (she did not participate in the strike since she is a member of another union).

In response to a draft version of this report⁴⁰, Carlsberg indicated that a Cambrew beer promotion worker earns an average of 143 USD per month.

5.3. Guinness

Basic wage

According to Mr Chong Yap Foo⁴¹, General Manager of Opus One Investment, the company importing Guinness in Cambodia, none of the beer promotion workers receive a basic monthly wage. This is in

³⁹ Response of Carlsberg to a draft version of this report. E-mail received 17 April 2012.

⁴⁰ Response of Carlsberg to a draft version of this report. E-mail received 17 April 2012.

conflict with the BSIC, whose Code of Conduct stipulates that beer promoters should have a fixed monthly base salary.⁴² However, 5 Guinness beer promotion workers interviewed for this research gave conflicting information:

- ❑ The three workers interviewed in Phnom Penh were on probation, two of them said they were getting a basic wage of 55 USD (they had no idea how much it could be after their probation period), and one a basic wage of 65 USD (she was told it would become 75 USD after her probation).
- ❑ The 2 workers interviewed in Siem Reap did not have any basic wage, they are paid on commissions. For example, if they sell 5 boxes, they are paid 55 USD.

Performance incentive

Some beer promotion workers of Guinness stated that they have a target of 8 boxes per month, and will receive a bonus of 15 USD if they reach it.

Work on public holidays and weekly days-off

The 5 workers gave confusing answers regarding their income when they work on public holidays or weekly days-off (2 or 4 USD per day). Mr Chong Yap Foo, General Manager of Opus One Investment, said that they receive 4 USD of extra income when they work on public holiday or weekly days-off⁴³.

Bonus and 13th month

Due to the confusion about the calculation of wages among the beer promotion workers of Guinness interviewed no usable information was obtained on bonuses and 13th month salary for Guinness.

Tips

The small sample base and the limited time of research make it not possible to state anything about tips at Guinness.

Total income

Only 2 of these workers were hired for long enough to give credible answers on their total income. One of those who are on probation with a basic wage of 55 USD says she gets 60 to 70 USD per month (thanks to the work on public holiday and days-off), one who is paid on commission earned from 40 to 99 USD per month in 2011.

5.4. Bavaria and Hollandia

Basic wage

Bavaria and Hollandia are beers produced by the Dutch company Bavaria Brouwerij. Seven workers promoting these beers were interviewed during this research. **None of them received a basic wage and none remembered having signed a contract** with the company importing Bavaria and Hollandia beers to Cambodia (two of them remember having signed documents on which their names, addresses and pick up time by the company van were listed, but they did not receive a copy of that document).

⁴¹ Interview by phone on 19 March 2012

⁴² Beer Selling Industry Cambodia (BSIC) Code of Conduct for Beer Promoters, paragraph 1, Employment status. See appendix for details.

⁴³ Interview by phone on 19 March 2012

Performance incentive

The income of these beer promotion workers depends solely on commissions. They are paid 12 USD per box of beer sold. If the full box is not sold, they get 0.5 USD per small bottle sold, and 1 USD per big bottle. They are paid when they give back to their supervisor the caps of the bottles they sell. The workers appreciate that they do not have to wait the end of the month to be paid, they can sometimes be paid every few days or week if they need the cash earlier. One worker promoting Bavaria, however, mentioned that she will receive a slightly lower amount per bottle if she requests to be paid before one box is fully sold.

Work on public holidays and weekly days-off

Beer promoters at Bavaria and Hollandia do not get paid any extra wage on public holidays and weekly days-off, as they are getting paid on commission.

Bonus and 13th month

Beer promoters at Bavaria and Hollandia do not get a bonus or a 13th month, as they are getting paid on commission.

Tips

Of 5 beer promoters of Bavaria and Hollandia answering the question on tips, 3 received 30-40 USD, 1 received 20-30 USD and 1 received 10 USD per month.

Total income

Due to the payment on commission, the incomes of those beer promotion workers are highly variable, ranging from 30 USD per month for 1 of them, to an average of 90 to 135 USD per month for 3 of them.

5.5. Various brands

Twenty beer promotion workers promoting Stella, Budweiser, Beck's (three brands owned by AB InBev), San Miguel (a beer brand from the Philippines), Miller (produced by SAB Miller), Asahi (a brand from Japan) and Cambodia (a new local brand) have also been interviewed for this research.

Basic wage

The amount of the basic wages (for workers with no seniority) ranges from 50 USD (San Miguel) to 75 USD (Beck's).

Performance incentive

When they are not paid solely on commission, some of the workers who promote the following brands reported they were getting incentives:

- ❑ Three workers promoting Miller in Phnom Penh were told they would get an income of 80 USD (instead of a basic wage of 55 USD) if they could sell 8 boxes of beer per month. None of them has ever reached this target.
- ❑ Two workers promoting San Miguel in Phnom Penh were told they would get an income of 70 USD (instead of a basic wage of 50 USD) if they could sell 7 boxes of beer per month, and they would also receive 3 USD per box sold over this target of 7 boxes. None of them has ever reached this target.

- ❑ One worker promoting Beck's was told she could get 3 USD per box of beer if she sold more than her target of 7 boxes per month (on top of her basic wage of 75 USD). She said that from time to time, she manages to sell 2 boxes over this target (but to achieve this, she sits about 3 times a week with customers, and drinks up to 3.5 bottles every time she sits).

Work on public holidays and weekly days-off

Of 11 workers promoting various brands who sometimes work on their weekly day-off and who know how much they earn for this day:

- ❑ Four (3 workers promoting San Miguel, 1 worker promoting Miller) said they are receiving 2 USD (which is a violation of the Cambodian Labour Law, which requires the employers to pay the double of their usual daily income).
- ❑ Six (3 workers promoting Cambodia beer, 3 workers promoting Miller) said they are receiving 4 USD (the double of their usual daily income, as required by the Cambodian Labour Law).
- ❑ One worker promoting Beck's said she is receiving 6 USD, which is above the amount required by Cambodian Labour Law.
- ❑ Of 7 workers promoting various brands who sometimes work on public holidays and who know how much they earn for these days:
 - ❑ One worker promoting San Miguel said she is not receiving any extra income (but she does not receive wages; all her income is based on commissions).
 - ❑ One worker promoting San Miguel said she is receiving 3 USD.
 - ❑ Three workers promoting Miller said they are receiving 4 USD.
 - ❑ One worker promoting Beck's said she is receiving 6 USD.

Bonus and 13th month

Only 3 of the 20 workers promoting various brands reported receiving some form of bonus: 1 who promotes Asahi (who received 1 box of beer at the Chinese New Year), 1 who promotes San Miguel (who received 1 box of soft drinks at the Chinese New Year), 1 from Stella who said that when she works 7 days a week, she receives 2 USD from the driver of the company van, but is not sure where the money comes from.

Only 2 of these 20 workers have heard of some form of 13th month: 1 who has been promoting Beck's for 7 months with a fixed wage was told she may get a 13th month after one year 'if she works hard', and 1 who promotes Miller (without any basic wage) was told that at the Khmer New Year, she would get an amount corresponding to her average monthly income.

Tips

Of 14 workers, working for various brands, who agreed to say how much they were getting on tips and were employed for a period sufficiently long to give credible answers:

- ❑ Two (1 from Beck's, 1 from San Miguel) said they never receive any tips.
- ❑ One promoting Cambodia beer said she receives 5 USD per month.
- ❑ Seven (3 from Miller, 2 from Stella, 1 from San Miguel, 1 from Asahi) said they receive between 15 and 40 USD per month.
- ❑ Four (2 from San Miguel, 1 from Stella, 1 from Beck's) said they receive between 50 and 60 USD per month.

All those who receive at least 15 USD in tips per month do sit and drink with the customers on a regular basis.

Total income

The payment solely or partly on commission varies depending on the popularity and the price of the beer (Cambodia beer for instance, is not well known yet, as it is new on the market), the relationship the promoter has with customers (whether she sits and drinks with them), and the popularity of the outlet where she is working.

- Two Stella beer promotion workers who are paid solely on commissions reported a total income ranging from 96 to 144 USD, and 1 reported from 160 to 240 USD (they also told that some Stella beer promotion workers may receive a basic wage).
- Two San Miguel beer promotion workers reported earnings of about 55 USD per month, 1 reported earning was around 70 to 80 USD per month.
- Four Miller beer promotion workers reported they were earning about 55 to 94 USD.
- One worker promoting Beck's without a basic wage reported that she had only earned from 24 to 30 USD the 3 last months (since she is pregnant, she 'only' drinks 1 glass of beer per night). Another worker who gets a basic wage has managed to earn from 89 to 115 USD in 2011 (but she drinks up to 3.5 bottles of beer per night).

6. How do beer promoters fill their wage gap?

The large majority of the beer promotion workers reported earning on average less than 100 USD a month. Whatever benchmark considered, it means they are far from covering their basic needs. Beer promotion workers have to resort to other options. These options are presented below.

Working on their day off, on public holidays and not taking annual leaves.

Most of the workers interviewed for this research reported they try to work up to 7 days a week to increase their commissions and get more tips. This is especially true for those who do not have a basic wage and rely solely on commissions, but others will also be prepared to work on their day off or public holidays (if allowed to) to get a few dollars more at the end of the month. When they have the right to annual leave, most do not take them, also in order not to lose the tips or commissions they could earn those days.

When beer promotion workers do not take their annual leave days, they do not get any financial compensation for these days. An exception is CBL, where company management agreed with its workers that their 18 days of annual leave is paid out every month along with their wages.

Sit and drink with customers to increase the income and receive tips.

Of the beer promotion workers interviewed for this study, 82.5% are still drinking beer with customers, 80.2% are still sitting with consumers (occasionally or every day). The main reasons given to this risky behaviour are to increase sales to reach the targets and to receive tips.

One beer promotion worker employed for 5 years in Phnom Penh by CBL drinks up to 20 glasses of beer a night, 3 to 4 times a week, as a result of which she gets drunk and has headaches. She does this to try to reach her target and get tips from customers, and has a clear message to Heineken: *'You have to decrease our targets and increase our basic wage, because what you pay us now is not enough to survive in Phnom Penh, especially when prices keep increasing month after month'*.

Doing a second job before promoting beer.

Some beer promotion workers said they have another job before going to the outlet. This leads to extremely long working days with little time left to care for family.

A beer promotion worker employed by Cambrew explained that she is only sleeping 4.5 hours per night because she has to combine two jobs to support her parents. *'To work from 5 to 10pm as beer promoter, I earn 70 USD, but I need 140 to 150 USD to cover the basic needs of my parents and myself. So I work as a security guard from 5 am until 2 pm, 7 days a week for a wage of 80 USD and I have only one day off [per month]. I get up at 3.30 a.m. for this job, and go to sleep at 11 p.m. after my beer promotion job. I have completed grade 12 and would love to go to the university, but would need to spare 20 USD per month for this, which is hopeless in my actual situation. Carlsberg should really consider increasing our basic wage'*.

'I am divorced and raise two children, I must find 200 USD per month to cover our basic needs. My basic wage is 61 USD, I never reach my target but since I work every day, I make about 80 USD a month from Heineken, thanks to the 4 USD paid when we work on public holidays and days off. Since I sit and drink a lot every night with customers, I manage to get 40 to 50 USD on tips by month. To reach the 200 USD, I get up every day at 4am, to sell fish on the market from 5 to 10am, I earn about

70 to 80 USD thanks to this second job', explained a beer promotion worker employed by Attwood since 3 years.

'The wage of 70 USD I get from Cambrew is not enough to support the basic needs of my family so every day, from 7 am until 3 pm, I work in a souvenir shop (I can earn about 2 to 2.5 USD a day there), and I go to the restaurant to work as a beer promotion worker from 5 to 10 pm. This is exhausting since I have too little time to rest, but with such little wage, I have no other option', a worker employed by Cambrew in Siem Reap reported.

A small minority of beer promotion workers resort to occasional prostitution.

Of 87 beer promotion workers interviewed, 6 (6.9%) admitted to engaging in prostitution to compensate their low incomes. For more information on beer promotion works and prostitution, see chapter 10.⁴⁴

'I combine two beer promotion works (for Budweiser, with a basic wage of 70 USD and for Asahi, paid on commissions only) because I support my mother who is sick and my two children, who are going to school. I earn an average of 200 USD with those two jobs, but I need 200 to 300 USD to support my family. This is why about 2 times per month, I accept to have paid sexual relations with customers, I get 40 to 50 USD each time', a 29-year-old beer promotion worker reported.

Accept extra work or unpaid overtime to stay on favourable terms with the outlet owners.

In a few cases, the outlet owners are requesting the beer promotion workers to help their waitresses and cooks, but usually, they do not receive an extra income for this work. *'I am scared of the reaction of the restaurant owner if I refuse to bring food to customers who also order the beer I promote. He could say lies about me to CBL and put me in trouble',* said a worker employed since 11 years by CBL.

In some cases also (not the majority), owners of outlets will push the beer promotion workers to work later than the pickup time of their company van without paying them. *'I am supposed to finish at 11pm but sometimes, I have to help the owner until 1 or 2 am without being paid',* told a worker promoting Heineken in Phnom Penh. Cases like this have been reported in other companies as well, such as Cambrew.

⁴⁴ It has to be noted that the interviews for this research have been conducted by a Caucasian man and the interpreting was done by a Cambodian woman. Some of the beer promotion workers may have been too shy to admit that they use prostitution to supplement their missing income. The percentage of beer promotion workers admitting to accept money for sex might have been different if the interviews had been conducted by Cambodian women.

7. Employment status

This chapter presents the issues on the employment status of beer promoters: whether or not they are in possession of a written contract, the duration of these contracts and the ways in which beer promoters are being hired to work for beer companies.

7.1. Availability of a written contract

Beer promotion workers in Cambodia are employed by the breweries for which they sell their beer. They have a contract with the brewery which specifies amongst others either a fixed monthly wage with incentive targets, bonuses, etc. Or beer promoters' contract stipulates a commission-based employment, in case of which workers' wages depend entirely on the amount of beer sold.

Standard 1 of the BSIC code of conduct, adopted in 2006, requires that beer promotion workers must be given a written contract.

A SOMO report on Heineken published in June 2010⁴⁵, based on SiRCHESI data collected in 2009, revealed that 80% of the beer promotion workers do not have a copy of their contract and do not recall signing a contract. 70% of BSIC workers and 94.7% of non-BSIC workers did not recall signing a contract.

In September 2010, report by Indochina Research Limited, commissioned by BSIC⁴⁶, found the opposite result: 93% of BSIC beer promotion workers possessed an employment contract.

The interviews conducted in November and December 2011 for this report show a big difference between the beer promotion workers employed by BSIC brands and the others:

- ❑ Of the beer promotion workers employed by BSIC brands 96.2% recall signing a contract, and 92.5% say they received a copy of this contract.
- ❑ Of the beer promotion workers employed by non-BSIC brands 15.6% recall signing a contract, and 6.2% say they received a copy of this contract.

So current research appears to confirm the results by Indochina⁴⁷, however it has to be noted that the sample base of the 2011 research is significantly smaller than that of the Indochina study.

Among the BSIC brands:

- ❑ The 26 CBL and the 7 Heineken beer promotion workers recall signing a written contract and received a copy.
- ❑ Of 16 Cambrew workers interviewed, 16 recall signing a contract, but 2 had not received a copy.
- ❑ Of 5 Guinness workers interviewed, 3 recalled signing a contract and had received a copy of this contract.

⁴⁵ 'Heineken - Overview of controversial business practices in 2009', SOMO, 2010.
http://somo.nl/publications-en/Publication_3536/

⁴⁶ 'BSIC Project Monitoring Final Report', Indochina Research, 2010, available at <http://www.bsic.com.kh/>

⁴⁷ 'BSIC Project Monitoring Final Report', Indochina Research, 2010, available at <http://www.bsic.com.kh/>

Dealing with pressure from the employer

The majority of the beer promotion workers have limited knowledge on their rights, on what they are entitled to by law or, in case they have one, by their contract. Also, many of them are illiterate. Often beer promoters rely solely on information from their supervisor or colleagues, and many don't dare to ask additional information.

This lack of awareness leads to all sorts of issues and abuses, for instance regarding the annual leave. Often, when they have the right to annual leave, most beer promotion workers don't take them in order not to lose the tips or commissions they could earn those days. However, others would like to take leaves, but don't dare to do it due to pressure from the employer.

One Cambrew beer promotion worker employed since 2007 has never taken any of her annual leaves because of work pressure: 'I am worried of the reaction of the establishment owner if I'd take my annual leaves. It's a busy place and there are only two beer promotion workers, so if one of us doesn't come, the other one and the waitresses will face a lot of pressure'.

Others do not dare to challenge a decision by the company, such as in Attwood. One worker promoting Heineken in Siem Reap said: 'Usually, the supervisor doesn't allow us to take more than 3 or 4 days of annual leave in a row. It is especially the case around public holidays, when we already have some days off, they don't allow us to add some annual leave, which would give us the opportunity to take a longer break'.

7.2. Duration of the contracts

All of the Cambodian beer promotion workers who are in the possession of a contract have annual contracts, even if they have been employed for many years. This is a violation of Article 67 of the Cambodian Labour Law, which states that:

'The labour contract signed with consent for a specific duration cannot be for a period longer than two years. It can be renewed one or more times, as long as the renewal does not surpass the maximum duration of two years. Any violation of this rule leads the contract to become a labour contract of undetermined duration'.⁴⁸

In an award delivered on 7 July 2011, the Arbitration Council gave the following interpretation of Article 67: 'Article 67(2) should be interpreted such that fixed duration contracts are converted into undetermined duration contracts where a renewal causes the total length of the employment contract to exceed two years'.⁴⁹

In the same award, the Arbitration Council ordered Cambrew to convert 34 workers' contracts, which had the total length of over two years, to undetermined duration contracts.⁵⁰ As of March 2012, these contracts have still not been converted.

In response to a draft version of this report Heineken indicated that the company will investigate if Heineken is indeed in violation of Cambodian law and if that would be the case, it will change its practices and make sure to operate according to Cambodian law.⁵¹

⁴⁸ Cambodian Labour Law, Chapter IV - The Labour Contract, Section 1, Article 67. Available at

http://www.ilo.org/wcmsp5/groups/public/--ed_protect/--protrav/--ilo_aids/documents/legaldocument/wcms_150856.pdf

⁴⁹ Labour Arbitration Council award on Cambrew, 7 July 2011, www.arbitrationcouncil.org/awards/A_6111_Cambrew_E.pdf

⁵⁰ Labour Arbitration Council award on Cambrew, 7 July 2011, www.arbitrationcouncil.org/awards/A_6111_Cambrew_E.pdf

⁵¹ Response of Heineken to a draft version of this report. E-mail received 13 April 2012.

Carlsberg stated⁵² that unless the company 'signs a contract over 2 years and the renewal is not more than 2 years each, [the company] is quite compliant with the law'. This interpretation however is rejected by the award of the Arbitration Council (see above).

7.3. Hiring

Most of the beer promotion workers promoting non-BSIC brands who are paid on commission were hired in informal ways. They had contact with a worker who is already promoting this beer, with the driver of the company van or with the supervisor, and started to work the next day or a few days later. In this paragraph Hollandia, Asahi, Beck's, Stella and San Miguel are mentioned as brands for which it is known that they hire some of their beer promoters in an informal way. There was no information available for the other brands and breweries mentioned in this report.

Some testimonies give a clear idea of how some brands behave when it comes to hiring beer promoters:

- *'One friend was working as beer promoter for Hollandia. She made the link with the office, and a driver came to pick me up one day at 4pm. It's only when I climbed into the van that I learned in which establishment I'd be working. It's my friend who told me the amount of the commission. She also gave me a uniform (although she is not a supervisor). I learned my job by looking at how other beer promotion workers do. I don't know where the office of the company importing Hollandia is, I have never met any of its staff, except the driver of the van. I work seven days a week, from 6.30 to 11pm', explained a woman who has been promoting Hollandia for 3 months.*
- *'One friend told me about this job, I called the Hollandia supervisor who came to the restaurant where I was employed as waitress. The supervisor told me about the amount of commissions and the working hours. I signed a blank sheet of paper where the supervisor wrote my name, telephone number and the time the van would come to pick me up. All I was told was to sell as much as I can', explained a woman who has been promoting Hollandia for 8 months.*
- *'I knew a driver of Stella, he came to the restaurant where I was waitress with a blank sheet of paper on which I had to write my name and address. He brought it to Stella, and I was 'hired'! I was not provided any uniform. The driver told me the amount of the commission and my working hours. I meet a supervisor when he comes to pay me, in exchange of the caps of the beers I sold, but I don't have his telephone number, so in case of problem, I may not seek any assistance. The driver told me that there are NGOs which help in case of issue with customers'; explained a woman who has been promoting Stella for 5 months.*
- *'I promote Budweiser from 5 to 10.30 pm and in the second part of the night, I go to a nightclub to promote Asahi, from 10.30pm until 2am. I don't have any contract with any of those brands. A man employed by the importer of Asahi brings me back to my home on his motorbike after my work. When I wish to be paid, I bring the caps of Asahi beer I sold to his home, or ask him to come to my home, and I get paid cash', explained a woman who has been promoting Asahi for 4 years.*

Workers promoting Beck's and San Miguel shared the same type of stories.

⁵² Response of Carlsberg to a draft version of this report. E-mail received 17 April 2012.

8. Relations with customers

Standard 7 of the BSIC code of conduct adopted in 2006 sets a very clear standard: 'The industry body acknowledges the risk that many BPs [beer promoters] may be pressured to drink beer in order to support their sales or to please the customer. It is the policy of the BSIC that during working hours, BPs should not sit or drink with consumers'.

All the beer promotion workers (from BSIC and non-BSIC brands) underlined that the media campaigns sponsored by BSIC and run by organisations such as the NGO CARE Cambodia have helped to raise the awareness of customers regarding the fact that they cannot force them to sit and drink. The posters displayed on the walls of many outlets (with logos from several Cambodian ministries) also raise this awareness, and the workers promoting BSIC brands wear a card around their neck which clearly shows that they may not sit and drink.

The transition from BSIC theory to practice is, however, far from complete. In September 2010, research by Indochina Research Limited commissioned by BSIC⁵³ found that 53% of the BSIC brand were still drinking with customers (at least sometimes), compared to 83% for non-BSIC brands.

We found higher percentages of beer promotion workers drinking with customers:

- ❑ Of those interviewed for this research 82.5% are still *drinking* with consumers: 74% of the BSIC brands, and 96.8% of the non-BSIC brands.
- ❑ Of those interviewed for this research 80.2 % are still *sitting* with consumers: 72.2 % in the case of workers promoting the BSIC brands, and 93.8% of those promoting non-BSIC brands.

8.1. Reasons for sitting and drinking with customers

The main reasons that many beer promoters still sit and drink with customers, are the following.

To increase sales and reach the sales targets

Some women were able to give a very clear estimation of the differences in sales when they sit and drink with consumers, or when they respect their company policy and abstain from doing it:

- ❑ 'If I don't sit with customers, I may sell 2 to 3 bottles per table. When I sit with them, I may sell up to 6 bottles' explained a beer promotion worker employed by Attwood (Heineken) since 2 years.
- ❑ 'If I sit, I can sell 4 to 5 bottles per night, if I don't, I won't sell any, or maybe one. I myself don't drink more than 1 or 2 glasses', explained another worker employed by Attwood (Heineken) since 1 year.

Two beer promotion workers who are promoting Hollandia also stated that whenever they sit and drink with customers, they are doubling their sales. Sitting and drinking with customers is essential in their case, since they do not get any basic wage.

Many explained that they hate to sit with consumers, since it sometimes leads to sexual harassment and nearly always leads to drinking (which often makes them sick), but they do it to try to reach their target. *'I don't like to do it, but I sit with customers 3 to 4 times a week, to get the tips and try to reach my monthly target. I sometimes drink up to 20 glasses in an evening, which gets me drunk and gives*

⁵³ BSIC Project Monitoring Final Report', Indochina Research, 2010, available at <http://www.bsic.com.kh/>

me headaches the next day. I also receive an average of 50 USD per month on tips thanks to this', said a worker employed by CBL since 5 years. Another CBL beer promotion worker said that during one year of work, she respected the company policy not to sit and drink, but was never reaching her target. When she did start accepting to do this, she reached the target for 3 months in a row.

Some beer promotion workers explained that they feel forced to sit and drink beer due to the competition with other beer promoters in the same outlet who are drinking with customers. This applies more to those who promote the less famous and/or more expensive beers, and to those whose income depends solely on commissions.

To get tips

Considering the low income of the beer promotion workers compared to the needs of any Cambodian citizen, many of them hope to get tips to reach a decent income. Getting tips is not obvious for beer promotion workers, since they are not supposed to be involved with the collections of the bills, which is done by waitresses. Some of the workers interviewed explained they may sometimes receive small tips by providing good services to customers (such as refilling ice in their glasses), having a good attitude towards them (keep smiling, telling jokes, etc.), but among the women who receive the best tips, a big majority admitted they were sitting and drinking with consumers.

'I sometimes sit with customers 3 to 4 times a week. I only sit for short times because if one of my supervisors sees it, I'll be fired. I drink 3 to 4 bottles per night when I sit with them, and feel a bit drunk. I really don't like this, but I do it for tips, which can be around 60 to 80 USD per month, whereas my basic wage is only 70 USD. I often have to slap hands which try to touch me more than acceptable', explained a worker who has been working for Cambrew for 2 years.

A beer promotion worker who has been working for CBL for 6 years explained that she is so desperate with her basic wage of 64 USD that she went on sitting and drinking with customers 2 to 3 times per week while she was pregnant, only for the tips.

The interviews with 5 San Miguel beer promotion workers showed a clear difference in the amount of tips between those who were sitting and drinking, and those who did not. The one who abstained from doing this reported she never gets any tips, others received from 20 to 60 USD per month.

It has to be noted that the amount of tips received by beer promotion workers is primarily related to the fact whether a customer is content or satisfied with the service of the beer promoter. However, current research shows that in the eyes of many customers a good service by a beer promotion worker often depends on whether she sits and drinks with them or not. Hence, in order to receive (more) tips, beer promotion workers are motivated to sit and drink with customers.

Also, the amount of beer consumed by a beer promoter is often not easy to estimate, as beer promotion workers commonly drink from the same bottle as their customers and because beer glasses are usually filled with ice to cool the drinks.

To deal with difficult customers

Despite the efforts of BSIC to raise awareness among costumers not to drink with beer promoters, there is still a substantial number of customers who demand that the beer promoters sit and drink with them. According to the interviewees of this research, the 'difficult customers' are often poorly educated people, men who have some degree of authority or links with the Government (policemen, soldiers, etc.), or simply men who are drunk and have lost the control of themselves. They will make a scandal if the beer promotion worker refuses to sit with them.

Rather than calling their supervisor, some workers agree to sit for a while and drink a small quantity of beer with such men if their behaviour remains more or less acceptable, and will go back to their normal work as soon as possible. Some workers interviewed for this study said that this solution was suggested by the owner of the outlet where they were appointed.

The pressure from the outlet owners

Only a very small minority of beer promotion workers reported that they were pushed by outlet owners to sit with customers who request it. Some would do it because they do not want to lose customers... or are scared of them. *'I am moved every 2 or 3 days to a new establishment. In some cases, when owners have powerful people as customers, they push me to accept to sit with them'*, explained a beer promotion worker who has been working for Kingdom for 7 months.

However, while many outlet owners may not be physically forcing their promoters to sit and drink, the low wages paid to them by the beer companies do indeed force them to do so.

8.2. Heineken family

A SOMO report on Heineken based on SiRCHESI data published in June 2010⁵⁴ found that 84% of the Heineken family beer promotion workers were drinking with customers in 2009, and 16% were abstaining for at least 2 nights.

In September 2010, a research by Indochina Research Limited commissioned by BSIC⁵⁵ found that

- ❑ 39% of the CBL beer promotion workers and 86% of the Attwood ones were never drinking with customers during working hours.
- ❑ 59% of the CBL workers and 14% of the Attwood ones were sometimes drinking with customers.
- ❑ 2% of the CBL beer promotion workers were often drinking with customers.

In this research, if we combine the results of the interviews of CBL and Attwood beer promotion workers, we found that 33.3% were never drinking with consumers, while 67.7% do. The figures of CBL and Attwood are combined here to be able to compare with the results of the 2010 SOMO report based on SiRCHESI data (see above).

8.2.1. CBL

Of the 26 beer promotion workers who were asked how many times on average they were sitting with customers:

- ❑ 8 (30.8%) answered: never
- ❑ 2 (7.7%) answered: every day
- ❑ 1 (3.8%) answered: 1 time per week
- ❑ 9 (34.6%) answered: 2 to 3 times per week
- ❑ 1 (3.8%) answered: 5 times per week
- ❑ 2 (7.7%) answered: 2 times a month
- ❑ 3 (11.5%) answered: 1 time per month or every 2 months

⁵⁴ 'Heineken - Overview of controversial business practices in 2009', SOMO, 2010. http://somo.nl/publications-en/Publication_3536/view?set_language=en

⁵⁵ 'BSIC Project Monitoring Final Report', Indochina Research, 2010, available at <http://www.bsic.com.kh/>

All those who are sitting with customers are also drinking beer with their customers, to increase the sales. Some of those who are not sitting also drink beer while standing, to please the customers who enjoy a quick 'cheers' with the beer promotion worker.

Of the interviewees 14 gave a clear estimation of how much beer they were drinking with customers:

- ❑ 6 (42.8%) reported drinking an average of 1 glass per week
- ❑ 5 (35.7%) reported drinking 0.5 glass of beer once in a while (from 1 time every 2 months to 2-3 times per week)
- ❑ 2 (14.2%) reported drinking 4 to 5 glasses every day
- ❑ 1 (7.1%) reported drinking as many as 20 glasses, 3 to 4 times a week

8.2.2. Attwood

Of the 7 Heineken workers who were asked how many times in average they were sitting with customers:

- ❑ 3 (42.8%) answered: never (2 because they are afraid to be fired if they are seen by the supervisor, 1 because she works in an outlet which is too busy to allow any time to sit)
- ❑ 3 (42.8%) answered: every day
- ❑ 1 (14.2%) answered: about 5 times per week

The 3 workers who sit every day with customers are drinking an average of 5 bottles per evening. The one who does it about 5 times per week drinks 1 to 2 glasses of Heineken the days she sits with customers.

8.3. Cambrew

Of the 11 Cambrew workers who were asked how many times in average they are sitting with customers:

- ❑ 3 (27.3%) answered: never
- ❑ 3 (27.3%) answered: an average of 2 times a week
- ❑ 4 (36.3%) answered: an average of 4 times a week
- ❑ 1 (9.1%) answered: an average of 2 times per month

8.4. Other brands

Outcomes of the interviews with other brands than CBL, Attwood and Cambrew regarding beer promoters' relations with customers and the instances of sitting and drinking with them are listed below.

- ❑ Of 6 Guinness beer promotion workers who were asked how many times in average they were sitting with customers, 4 answered they do it 2 to 3 times a week, and 1 said 4 to 5 times a week. Only 1 never does it. One of them said that she drinks herself about half of what she sells. They know it is against Guinness policy.
- ❑ The 7 workers promoting Bavaria and Hollandia said there was no brand policy regarding the relations with customers. All they were told when they were hired is to sell as much as possible. To do this, the 7 workers interviewed said they were drinking beer with their customers, 3 of them said they were doing it every day.
- ❑ The 2 Beck's beer promotion workers said they were doing it about 2 to 3 times a week. One of them drinks 1 glass of beer per night (and is pregnant); the other drinks up to 3.5 bottles of beer per night (which sometimes get her so drunk that she may not come to work the next day).

- Of the 3 Stella beer promotion workers, 1 is sitting and drinking every day with customers, 2 are doing it on average of 3 times a week. They drink between 1 and 5 bottles every day they do it. They were not told that there would be any Stella policy on this, and insist on the fact that they could not sell the beer if they did not do it. This, despite the fact that AB InBev, the owner of the brands Stella and Beck's stated that its distributors have policies in place which prohibits its beer promoters to sit and drink alcohol with their customers.⁵⁶
- Of the 4 beer promotion workers promoting Miller, 2 said they were sitting every day with customers, 1 reported 3 times a week, 1 answered 4 to 5 times a week. In average, they drink 1 to 2 bottles per evening. They were not told that there would be any Miller policy on this.
- Of the 5 San Miguel beer promotion workers, only 1 said she was never drinking with customers, 2 said they do it 2 to 3 times a week, 1 said every 4 to 5 times a weeks, and 1 said 1 to 2 times a month. One of these workers drinks a minimum of 7 to 8 bottles every night she sits with customers, 1 is drinking between 5 and 10 bottles, 2 others said between 1 and 3 bottles. Three of these workers said there is a San Miguel policy not to sit and drink with customers.

⁵⁶ Response of AB InBev to a draft version of this report. E-mail received 6 August 2012.

9. Sexual harassment and violence

In September 2010, research conducted by Indochina Research Limited, commissioned by BSIC⁵⁷, reported that 54% of BSIC beer (brand) promoters had indicated that sexual harassment never occurred in the work place. The percentage for the non-BSIC workers was 38%.

For the current research, 66 beer promotion workers were asked in November and December 2011 if they had faced any form of unwanted sexual touching, other forms of touching or any verbal abuse in the last 12 months.

- ❑ **61% of the BSIC brands beer promotion workers interviewed have experienced some form of disrespectful behaviour or unwanted touching in the last 12 months, compared to 79% of the workers promoting non-BSIC brands.**
- ❑ Of all interviewees, 39.3% answered they had experienced unwanted sexual touching. It was the case for 39% of the 41 workers employed by BSIC brands, and 41.6% of the 24 workers promoting non-BSIC brands.
- ❑ Of the workers employed by BSIC brands, 12.2% answered they have been touched 'on their hands or face only', compared to 20.8% of the workers promoting non-BSIC brands.
- ❑ Of the workers employed by BSIC brands 9.8% reported 'disrespectful behaviour only' (insults, dirty jokes, being verbally rude to them), compared to 16.6% of the workers promoting non-BSIC brands.

Those results remain alarming. Nevertheless, the BSIC Code of Conduct, adopted in 2006, stated clearly that 'The BSIC declares a zero-tolerance approach with respect to abuse and sexual harassment of beer promoters. All BSIC members will develop and implement an anti-sexual harassment policy for company staff as a part of personnel contracts and code of conducts'.

The companies which are members of BSIC have indeed taken concrete steps to fight against the abuses and sexual harassment of the beer promoters. Awareness campaigns have been carried out through the media, posters are displayed on the walls of many outlets, harassment reporting systems have been put in place, the workers promoting BSIC brands wear a card around their neck which shows that they may not sit and drink, they also wear the BSIC logo on their uniform. The BSIC beer promotion workers are also trained on how to handle difficult situation with customers. The beer companies also provide a van to bring the workers to the outlet where they are appointed and bring them back at night (see also paragraph 9.2).

All the workers interviewed who promote BSIC brands **say that these initiatives** taken by this group and its partners (CARE Cambodia, Solidarity Association of Beer Promoters in Cambodia, the Ministry of Women Affair and the Ministry of Interior) **have helped to reduce the intensity and frequency of aggressive behaviour.** Many workers who promote non-BSIC brands also admitted that those initiatives have helped to give a better image to the beer promotion workers in general.

Still, a lot of customers treat the beer promotion workers as lower class citizens who have to accept such harassment. Beer promotion workers, some union leaders and employers report that in many cases, the men who behave in such way are people believing they have some power over others (soldiers, policemen, etc.) or poorly educated men coming from rural areas.

⁵⁷ 'BSIC Project Monitoring Final Report', Indochina Research, 2010, available at <http://www.bsic.com.kh/>

9.1. Reasons why sexual harassment and violence still exist

There are many reasons why sexual harassment and violence against beer promoters exist; these are, among others, the following.

- a) Most of the beer promotion workers interviewed say that when the level of touching or other sexual harassment becomes unbearable, **they get some sympathy from the manager or owner of the outlet, but no real help**. None of them ever mentioned that a manager or owner made a strong intervention to calm down a customer. They fear to lose the customer, are afraid that he may carry a weapon or be connected to high-level people, and rather suggest the woman to avoid serving this customer, to go away for a while.

'In 2010, one customer threw his beer on me because I was refusing to sit next to him. The manager told me to go out for a while, and then asked me to serve at other tables. The customer who had thrown his beer was allowed to go on drinking', explained a beer promoter who has been working for Cambrew for 11 years. 'Once, a customer who was drunk ordered me to sit, I refused, he complained to the restaurant owner who told me to hide for a while behind the restaurant, and later on, to go on working at other tables', said another Cambrew worker, who has been working for this brewery for 8 years.

- b) While in such situation, there is clearly an aggressor (the customer) and a victim (the worker), the beer promotion workers are explaining that **to avoid problems**, if they feel touched on the body in ways they deem inappropriate, **they smile, stand up and apologise to the customer** for leaving their table. According to the interviews, beer promoters perceive this more as a 'normal' occupational hazard rather than as an abuse to report.

'When such thing happens, I try to explain the customer that this is not something to do. If he goes on, I keep quiet, keep smiling but I walk away', a worker who has been working for Cambrew for 2 years reported.

'About 3 times a month, I get touched on breast or back by customers. When it happens, I apologise, I tell them that even if I am a beer promoter, I have values and should be respected. If the man doesn't stop, I walk away', according to a Heineken beer promoter who has been working for the company for 2 years.

- c) Often beer promotion workers **fear to protest if sexually harassed, because they fear they will be moved to less popular establishments**, in case they are working in an establishment where they sell a lot of beer: if they complain about mistreatments by customers, they may be viewed disfavouredly by the owner of the bar or restaurant, who may ask the beer company to move them to another establishment and get a new beer promoter. Also, the girls often **fear losing their reputation** if they openly admit to having been sexually harassed by customers.

'When I complained to the restaurant owner about the fact that I have been sexually harassed by a customer, he blamed me, told me that in a way, I had to accept that it was part of my job as a beer promotion worker! I told him that I was not a sex worker, he didn't speak to me anymore, but spoke to my supervisor, and I was moved to another establishment, but this place is less popular, so my income has decreased', explained a worker employed since 3 years by Cambrew.

- d) **The lack of prosecution by the judicial authorities.** The culture of impunity is still prevalent in Cambodia in such cases. An exemplary trial, which would seriously condemn a perpetrator of violence or sexual harassment against a beer promotion worker, would send a signal to all the customers. The workers who have been victims of abuses and who dared to complain to

the police (with the help of a union or NGO) are put under pressure by the aggressors, and usually accept money to drop the case, knowing they have few chances to obtain a favourable decision from court, after a very long procedure.

- e) **In some cases, a lack of decisive action by the employers.** The BSIC companies have supervisors who may be called by the beer promotion workers in case of problem. In accordance with the BSIC Code of Conduct, they have set up a reporting system for the case of abuse and harassment. The first course of action is to discuss which steps to take with the outlet owner, but if no actions are taken, the BSIC members may withdraw all beer promotion workers (from all brands represented by BSIC members) from the outlet.

One CBL beer promotion worker whose skirt had been lifted and who was insulted by a customer in December 2011 explained that the mechanism functioned: two supervisors promptly came to rescue her, and since the outlet owner refused to collaborate later on to identify the customer who had done this, BSIC members removed their beer promoters from this outlet. She, however, expressed a lot of disappointment regarding the fact that it has not been possible to obtain an apology from the customer.

Another example of the functioning mechanism is the case of an outlet where CBL and Cambrew withdrew their beer promoters after the outlet owner had been violent towards a beer promotion worker. The withdrawal of the two beer companies resulted after a few months in the closure of the outlet.⁵⁸

In other cases, the companies have not been as supportive of the workers. The union CFSWF reported that in December 2010, its leader assisted a beer promotion worker who had been sexually harassed by a security guard of a restaurant where she was working and she was moved to another outlet. But a few days later she was physically attacked by the owner of the first outlet and his relatives, while she was inside the van of CBL. When requesting the assistance of CBL to lodge a complaint at the police, the CFSWF representative was told that this was her responsibility since she herself is the union leader.

All the beer promotion workers from BSIC brands explained they have been told by the company that they may call their supervisor in case of problems, which is in line with the BSIC Code of Conduct. One worker employed since a few months by Cambrew in Siem Reap, however, got confused by the fact that in her job interview, she was warned that she may face some sexual harassment during her work, and had to say if she could accept it or not. It has to be noted, however, that this could be an extreme situation which does not necessarily reflect the situation in Cambrew.

'3 to 4 times a month, I get touched by consumers on face, bottom or hair, it happens not only when I sit with them, but also when I stand and show the CBL beers. I walk away to avoid scandals but I raised the issue in meetings I had in CBL, and was told to explain politely to the customer that he must not do this', according to a CBL beer promotion worker who has been working in Phnom Penh for one year.

⁵⁸ Example provided by Heineken in a response to a draft version of this report. E-mail received 13 April 2012.

9.2. Other issues

9.2.1. Transport to and from the workplace by company van

Cases of beer promotion workers being harassed or coerced into sex on their way back home after work have been reported in the past. This is one of the reasons which led most of the beer companies to provide transport by van between the outlet and the home of the worker, or near the home if she may not be dropped off in front of her residence. In Siem Reap, a few Cambrew workers stated that they were not dropped near their home since they live a bit far away from town. They are left at drop-off points and drive back home by motorbike.

The transport by van has increased the security of the workers. However, some workers choose not to use their company van, for different reasons:

- ❑ They live close to the outlet, and feel safe to go home on their own.
- ❑ They want to go back home quickly, whereas the van drops every worker at her home, one by one, causing travel times to increase a few hours daily. Also, the schedule of the transports is often conflicting with the working hours of the beer promoters leading to an even longer working day.

'I have to be in the restaurant from 5 to 11.30 pm. If I come back home with the van of CBL, I won't be home before 1 am, because I live far and the van will drop all the others before me. So I pay 1,25 to 1,50 USD every day to go back by moto taxi', explained a worker who has been working for CBL in Phnom Penh for 6 years.

Other CBL beer promoters living in Phnom Penh explained that they prefer to go to the outlets themselves, since when they go by van, they get to the brewery at 2 or 3 pm, whereas they only start to work at 5 pm.

- ❑ They want to go on working after the pick-up time of the van to earn a bit more. *'If I leave at 11 pm when the van comes to pick me up, I can never make 200 USD a month, which I really need since I have 4 children. Due to this, I need to stay until midnight and come back on my own',* explained a Cambrew beer promotion worker employed for 4 years. One worker reported that such behaviour has led to a refusal of help from Cambrew when she has been slapped by a customer. *'In 2008, one customer hit my head because I was not bringing the ice quickly enough. I called the supervisor, but she told she was not responsible, since I was working after my normal working time'.*

9.2.2. Hostesses are replacing the beer promotion workers as main victims

In many outlets, hostesses have replaced the beer promotions workers as main victims of sexual harassment. As more beer sellers abstain from drinking, sometimes hostesses replace them at the tables. They are employed and paid by the establishment owners, not by the breweries or importers or beers. Their job is to welcome the customers at the entrance of an outlet, accompany them to the table and sometimes entertain them at the table if they request it. Although the situation of hostesses was not the main focus of this research, their position in these outlets seems to be cause for alarm as well. Recommendations that follow the conclusions of this report should be considered equally important for hostesses, in order to improve their position and situation in the establishments.

In a response to a draft version of this report, Heineken stated that the company 'should absolutely not take responsibility for the safety and well-being of hostesses. [...] They have no role with regard to the distribution of beer and are not in our service. They are the full responsibility of the outlet owners.'⁵⁹ This, however is in conflict with the United Nations Guiding Principles on Business and Human Rights, which states that business enterprises 'should seek to prevent or mitigate adverse human rights

⁵⁹ Response of Heineken to a draft version of this report. E-mail received 13 April 2012.

impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts'.⁶⁰ Also it contradicts the OECD Guidelines for Multinational Enterprises, which state that a company should 'use its leverage to influence the entity [...] with which it has business relationships [...] causing the adverse human rights impact to prevent or mitigate that impact'.⁶¹

⁶⁰ John Ruggie, 'Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework', Principle 13, 21 March 2011, Advanced Edited Version, p. 14, <http://www.businesshumanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>

⁶¹ OECD Guidelines for Multinational Enterprises, chapter IV, 43.

10. Prostitution

A SOMO report on Heineken based on findings by SiRCHESI published in June 2010⁶² revealed that 42% of the queried beer promotion workers for various brands reported in 2009 to have accepted money for sex, on average two times per month. Of the women working for Heineken family brands, 29% sometimes accepted propositions from customers who offered money or gifts in exchange for sex in 2009.

Of 87 beer promotion workers who were asked for this report whether they accepted money for sex, only 6 (6.9%) admitted doing so, to compensate their low incomes, and 11 (12.7%) answered that they see other beer promoters doing it occasionally.⁶³ The income generated by prostitution is usually much higher than the income generated through the commissions on beers, but most women would much prefer to avoid doing it if they could: on top of the loss of dignity associated to prostitution, many girls are beaten by violent customers, some say they are not paid or lose the control on the use of condoms since they are drunk.⁶⁴

Of the 6 beer promotion workers who admitted to accept money for sex, only one is employed by a BSIC brand. She is working for CBL in Phnom Penh. She is one of the very few promoter from CBL who explained that she was reaching her target every month, but attracts the consumers by drinking with them every night (2 to 3 Anchor beers per night): *'When I sit to drink with customers, I put the BSIC card behind me, in my back, so the customers don't feel intimidated and know they can drink with me, which increases my sales. Every night, I get propositions to go out with customers after working hours. Sometimes, on the next day, these customers call on my mobile and ask for sexual relations. If I don't go, they won't come anymore to the place I work in the night, my sales will decrease and I won't reach my targets anymore'*. This extra income helps this worker to meet the needs of her two children (her husband has 'two wives', so he is not contributing much to the household income).

Five of the workers who admitted accepting money for sex were promoting brands which are not members of BSIC: 1 from Asahi, 1 from Cheers, 1 from Hollandia, 2 from San Miguel. The fact that none of them is getting a basic wage is no coincidence. They explained that they are afraid to lose their customers (and all their income) if they refuse to accept sexual relations. Even those who refuse the sexual relations say that this sometimes puts them in difficult situations. *'The propositions of the customers confront us with a dilemma: some of them say that if we refuse to follow them after the working hours, they won't drink our beer the next time. I earn a fixed wage, so my income doesn't depend on the number of beers I sell, but I need the tips (about 30 USD a month) to make a decent income. Fortunately, most of these customers keep coming back and to drink my beer'*, explained a worker employed by Cambrew since six months.

⁶² 'Heineken - Overview of controversial business practices in 2009', SOMO, 2010. http://somo.nl/publications-en/Publication_3536/

⁶³ In a response to a draft version of this report, Heineken questioned the percentage of women having seen others engaging in occasional prostitution, stating that 'all beer promoters might be referring to the same other beer promoter(s) here'. However, the majority of those who answered 'yes, I have seen others' were working in different outlets, so they can't have been referring to the same beer promoter.

⁶⁴ The interviews were conducted by a Western man, with the help of a Cambodian female interpreter. Some beer promotion workers may have been too shy to admit having accepted money for sex. The percentage of those admitting to do so might have been higher if the interviews had been conducted by Cambodian women.

« I accept sexual relations with customers after working hours about 10 times a month. They pay me between 30 and 60 USD per intercourse. I feel I have no choice, I have to do it because if I refuse, customers won't drink my beer any more, and I would not have any money to feed my two children (I am divorced). Some customers are violent, or want to stay longer than agreed, or refuse to pay the price we had agreed once we are done. I'm scared of HIV because when I am drunk, sometimes, I may not control the situation. Sometimes, customers did it without condoms. I got scared, did the test but fortunately, it was negative', said a woman who has been promoting Cheers for two years.

Others do not see the customers coming back. One woman who promotes Bavaria in Phnom Penh: *'When I get such proposition, I always refuse, I tell the customers I have a husband waiting for me, but sometimes, these customers don't come back to drink Bavaria beer anymore'*. For workers like her, who do not receive a basic wage, losing a few regular customers is a serious loss of income. Bavaria does not seem to have any policy on this, since another Bavaria beer promoter answered that her supervisor told her she may go out with customers after the working hours.

Like many sex workers in Cambodia, the beer promotion workers who accept paid sexual relations with customers are sometimes confronted with physical violence, or cheated on the amount paid for the relation. San Miguel has a policy to forbid its beer promoters to have sexual relations with customers, but two of the five promoters of this brand interviewed admitted doing it: *'I accept because I need the money. I do it 10 to 15 times a month, and get 15 to 30 USD every time. Some customers say that if I don't do it, they won't drink my beer anymore. I go with them to a guest house. Sometimes, the customers beat me. Others run away after the intercourse and don't pay me. Some customers request to do it without condom, but I always demand it'*, explained a beer promotion worker who has been working for San Miguel for four months. Since she is divorced, supports two children and her parents, her basic needs are about 300 USD per month. She earns about 55 to 70 USD by the commissions on the beers sold, 50 USD by tips, and the rest is earned by prostitution.

Since the government crackdown on trafficking in 2008 (which resulted in the shutdown of many brothels), more men are looking for sexual services from girls employed in some of the beer gardens, restaurants and nightclubs (more often from hostesses, but also from beer promotion workers). The customers are usually local, but in a few cases, tourists or expatriates may also be involved. *'I accept to do it about 3 times a week, for a minimum of 50 USD. Once I escorted a Dutchman who loved to drink the beer I promote, Hollandia beer, he paid me 500 USD for one week. With this amount, I can live during two months, it's a lot compared to the 40 to 70 USD a month I earn by selling Hollandia beer'*.

10.1. Awareness of HIV/Aids

A recent unpublished study by CARE Cambodia of 260 beer promotion workers, employed by BSIC breweries, non-BSIC breweries and beer distributors, has revealed that 20% of them did not know that HIV was transmitted through sex.

For this report, 63 beer promotion workers were asked if they have received any education about HIV since they started this activity. Of these, 57 (90%) answered that they did. The 6 who answered they did not receive any training are promoting non-BSIC brands. In Phnom Penh, most of the workers answered they received classes from their employer (in the case of Attwood, Cambrew and CBL) and/or from the NGO Care and its Solidarity Association of Beer Promoters in Cambodia.

In Siem Reap, most of the workers answered they were educated by RHAC (Reproductive Health Association of Cambodia)⁶⁵, and a few mentioned other classes as well (from Cambrew, CBL and from the civil society organisation SiRCHESI). RHAC has signed memorandums of understanding with CBL, Cambrew, Guinness, Miller, Cambodia Beer, San Miguel and Attwood to provide every month two hours of training classes on various topics related to the health of women, including HIV and the availability of antiretroviral drugs (ARV). About 150 beer promotion workers of Siem Reap get a short training session about HIV at least once every three months. According to AB InBev, owner of the brands Stella, Beck's and Budweiser, training sessions are provided to all new beer promotion workers, with compulsory refresher courses for existing beer promoters on the subjects of HIV/Aids awareness and prevention, dealing with sexual harassment and drug prevention and treatment.⁶⁶

10.2. Availability of antiretroviral drugs (ARV)

As the SOMO report on Heineken, based on SiRCHESI data published in June 2010, already mentioned⁶⁷, the combination of drinking and providing sexual services imposes additional health risks, because inebriated women might be less consistent in demanding condom usage. One worker promoting Cheers and another promoting San Miguel interviewed in December 2011 confirmed that they do not control the situation anymore when they are drunk. *'Once, I didn't use condom because I was too drunk. I got scared in the following weeks, I required HIV testing in a NGO clinic. I got my lesson and now, if I am very drunk or if customers look very drunk, I refuse to go with them'*, explained a woman promoting San Miguel since two years.

According to health professionals interviewed for this research, the availability of antiretroviral drugs (ARV) is not a major issue at the moment in Cambodia; not for beer promotion workers either. All the people living with HIV/Aids whose CD4 count⁶⁸ is below 350 can receive free ARV from a number of hospitals and a network of NGO clinics approved by the government. One official of the Ministry of Health in the Siem Reap province explained that in the case of entertainment workers (including beer promotion workers), who are identified as a group at risk by Government, the CD4 count (below which people living with HIV/Aids can receive free ARV) is 500.

However, there are other issues:

- ❑ The patients have to go to the hospital or NGO clinic every month to obtain the ARV. Due to the **stigma attached to HIV** in Cambodia, many people living with HIV/Aids prefer to go to hospitals or NGO clinics which are not close to their home. Since very few of these hospitals or clinics have a budget which can support the travel costs of those patients, the payment of these costs may be a barrier to the access to the ARV. It is therefore important that employers provide support to staff that faces these issues. CBL does provide such support, by providing transport and an extra day off to its workers (including beer promotion workers) who wish to travel a bit further to get their ARV.
- ❑ The treatment of most opportunistic infections⁶⁹ of people living with HIV/Aids is not free of charge. Due to their low income, most of the beer promotion workers have no savings at all, so when they are not able to work due their weakness, they may **not be able to pay for the treatments of opportunistic infections**. When they are still employed by companies which

⁶⁵ Reproductive Health Association of Cambodia, <http://www.rhac.org.kh/>

⁶⁶ Response of AB InBev to a draft version of this report. E-mail received 6 August 2012.

⁶⁷ See 'Heineken - Overview of controversial business practices in 2009', SOMO, 2010. http://somo.nl/publications-en/Publication_3536/view?set_language=en

⁶⁸ The CD4 is a glycoprotein, health professionals refer to this CD4 count to decide when to begin treatment for the people living with HIV.

⁶⁹ Opportunistic infections are infections that occur because of a weakened immune system. The HIV virus itself does not cause death; it disables the immune system, allowing for the invasion of other diseases, like e.g. tuberculosis.

have their own doctor, such as Cambrew and CBL in Phnom Penh, they may probably get these treatments through an agreement of the company doctor, but some people living with HIV/Aids do not dare to reveal it to anyone at the workplace, even to the doctor, because they are afraid to lose their job.

- **Access to post-exposure treatments**, for people who have had non-protected sexual intercourse in the last 48 hours and would like to take this treatment which may considerably reduce the risk of contracting HIV, is too expensive. It costs around 30 USD in Cambodia, an amount most beer promotion workers are not in a position to afford. However, as mentioned above, some of the workers interviewed admitted having had sexual intercourse without using condoms because they and/or the customers were too drunk to control what they were doing.

11. Freedom of association

There are two federations currently organising beer promotion workers in Cambodia:

- The Cambodian Food and Service Workers' Federation (CFSWF), affiliated to the Cambodian Labour Confederation (CLC), an associated organisation to the International Trade Union Confederation (ITUC). According to its President, Sar Mora, 312 of the 2,153 CFSWF members are beer promotion workers: 175 from CBL, 83 from Cambrew, 54 from other companies (Kingdom Beer, Cambodian Beer, etc). The CFSWF has collaborated extensively on this report, allowing us to meet many of its members for example.
- The Trade Union Workers Federation of Progress Democracy (TUWFPD), affiliated to National Union Alliance Chambers Cambodia (NACC), often described as a pro-Government confederation. This union is concentrated in a single brewery, Cambrew, where it created the 'Trade Union Personnel Workers' Progressive of Angkor Beer', which is largely considered to be a yellow union (a union heavily influenced by company management). It claims to have just over 600 members in Cambrew (about 500 beer promotion workers, about 100 drivers and some handlers of boxes and barrels). The three officers of this union are supervisors of beer promoters. The Trade Union Personnel Workers' Progressive of Angkor Beer reacted unfavourably to numerous requests for meeting for this research. The only meeting which was possible was with Kim Chan Samnang, President of TUWFPD, but the union leaders inside Cambrew declined our requests to meet, talk about their activities and the situation of beer promotion workers at Cambrew.

11.1. Freedom of association at Cambrew

The ITUC Annual Survey of Violations of Trade Union Rights⁷⁰ revealed that in 2010, Cambrew intimidated beer promotion workers who wanted to join the CFSWF, telling them that if they do so they will 'break the rice bowl', an expression meaning they will lose their income (implying they will be dismissed). Several beer promotion women elected as CFSWF representatives at the brewery later left the union under pressure from the management.

The situation did not improve in 2011, especially after CFSWF launched a strike in Phnom Penh in order to get Cambrew to respect a July ruling by the Arbitration Council that ordered the brewery to adhere to the labour law and pay its beer promotion workers 2 USD overtime on Sundays (Cambrew was only paying 100% of their daily wages for overtime work as opposed to 200% according to Cambodian labour law).⁷¹ The council's ruling was retroactive for three years, meaning Cambrew had to reimburse overtime pay totalling as much as 320 USD. '*The strike was really our last resort, we had tried everything to avoid it, but the management refused to negotiate*', explained Sar Mora, President of CFSWF.

Cambrew finally paid the money it owed its beer promotion workers, but CFSWF leaders explained that the brewery still refuses any social dialogue with their union. Many trade union rights violations (discriminations, threats, intimidations) were also committed against CFSWF members before, during and after the strike.

⁷⁰ ITUC website, Annual Survey of Violations of Trade Union Rights. Cambodia 2011, <http://survey.ituc-csi.org/Cambodia.html> (15/02/2012)

⁷¹ See also: 'Beer girls brew Angkor strike', The Phnom Penh Post, 25 July 2011.

Before the strike:

- ❑ Beer promotion workers affiliated with CFSWF already faced some discrimination compared to those affiliated with the yellow union. *'When there were special events, such as workshops, a programme at Ministry of Women Affairs, an interview by a NGO, the members of CFSWF were not called'*, explained a CFSWF member who has been working at Cambrew for 8 years.
- ❑ A beer promotion worker who joined the CFSWF in 2010, one year after starting to work for Cambrew, said that she had good relations with her supervisor and senior supervisor before (both are leaders of the TUWFPD), but that they talked to her much less after they heard about her affiliation with this union, and even told her they wished she had not joined an 'external union'.
- ❑ Two months before the strike, the President of CFSWF was approached by TUWFPD and was told she would be promoted as supervisor if she resigned from CFSWF and joined that union.
- ❑ According to CFSWF, beer promotion workers who signed a letter supporting a demand to get higher compensations for their work on their day-off (to comply with the law) were told thereafter by the management to sign a letter stating that they were not demanding this, that they did not understand the objectives of the CFSWF and were resigning from this union.⁷² They were threatened with dismissal if they did not sign.

During the strike:

- ❑ Leaders of the TUWFPD called some of the CFSWF members to push them to resign from CFSWF and join the yellow union. The president of the CFSWF union was even offered 400 to 500 USD to join the TUWFPD, and an extra amount of money when she would deliver her baby (she was pregnant). She refused.
- ❑ Some of the strike participants were told they would lose their job if they did not stop their action.

After the strike:

- ❑ The CFSWF reports that 21 beer promotion workers who participated in the strike were sanctioned by being transferred to outlets with fewer customers, which means that those whose income is partly dependent on the number of beers sold (paid by commission) saw their income decline.

Some of the participants of the strike were interviewed for this research, each of them had the same kind of experience: *'All the beer promotion workers who joined the strike have been moved to bars or restaurants which are less popular, so we may sell and earn much less. I work for Cambrew since 3 years. My basic wage is 50 USD, but thanks to the commission, I was earning from 120 to 150 USD before the strike. After the protest, I was moved to another restaurant where I can only earn around 90 USD because there are much less customers there'*.

At Cambrew, workers earning a commission-based wage may only change location three times. It means that those who participated in the strike and have already been moved to a third place have little chance to be appointed to another place, although their income may be very low in this third place. *'Due to this situation, five of them have accepted money from Cambrew to leave their job'*, revealed Sar Mora, President of CFSWF.

- ❑ Cambrew tries to isolate the beer promotion workers who joined the strike. For instance, when there is a meeting, they are in a different group than those who did not join. Those who

⁷² Interview with Sar Mora, President of CFSWF, 31 December 2011.

participated in the strike also notice that they are now picked up from the workplace in a different van than those who did not participate. *'My colleagues who are affiliated with the yellow union have changed their attitude towards me after the strike. They keep distant, we are not friends anymore, they are influenced by the yellow union which claims that what was obtained thanks to the strike was obtained thanks to them, that our strike was not useful'*, said a worker who has been working at Cambrew for 3 years.

- ❑ Those who participated in the strike have heard rumours (propagated by some drivers and colleagues) that their annual contracts may not be renewed.
- ❑ On 21 February 2012, CFSWF sent a notification letter to Cambrew to inform the management that union leaders have been elected. When the CFSWF staff asked the receptionist to sign the letter to certify that they had received it, the receptionist refused, said she was told by management that they cannot accept any letter from CFSWF.

The strike was limited to Phnom Penh, but in Siem Reap, beer promotion workers employed by Cambrew explained that they were reprimanded for having attended a meeting organised by CFSWF leaders, although this meeting did not take place during their working hours. *'Following our participation in this meeting, one of the supervisors got very angry. In the monthly company meeting, he shouted at us, saying we should have informed him that we were going to participate in this union meeting, that it was as if children had been going out without their parents' permission. He said that if we didn't like our situation, we could resign. I think he was upset because he had received a phone call from the Cambrew management in Phnom Penh, after we had complained that some of us faced difficulties to take our 18 days of annual leave'*. Since the workers got blamed for their participation in this meeting, they are now scared to join any union meeting.

11.2. Freedom of association at CBL and Attwood

In 2010, the ITUC Survey on Trade Union Rights Violations revealed that CBL has used intimidation to stop beer promotion workers from taking part in a meeting CFSWF had invited them to. On several occasions, CBL beer promotion workers had been called in by their superiors to be told that one or another union meeting was illegal and that the company is not responsible for their safety if anything happens to them.

Such incidents were not reported in 2011. CBL management refuses to allow CFSWF leaders to organise meetings during working hours, but does not oppose the beer promotion workers joining a union or attending union meetings after working hours. The CFSWF President in CBL is also the shop steward (workers' delegate to the management) of the company, so she meets with management from time to time.

At the federation level however, CFSWF states that management of CBL always refuses to meet with them. Even though the union has sent numerous letters requesting meetings, those letters are never answered. The CFSWF leaders have only been able to speak with CBL management at mediation meetings organised by the Ministry of Labour.

During this research, no indication was found that Attwood would threaten the freedom of association of its beer promotion workers. It has to be noted that at the moment, CFSWF does not have any members in this company.

In a response to a draft version of this report, Heineken questioned the status of CFSWF and stated that 'it is unclear if this trade union has to be regarded as representative (according to Cambodian

law)⁷³ However, CFSWF is affiliated to the Cambodian Labour Confederation (CLC), which in turn is member of the International Trade Union Confederation (ITUC) and thus has to be accepted and treated as a representative union.

⁷³ Response of Heineken to a draft version of this report. E-mail received 13 April 2012.

12. Alternatives to the beer promotion work

Most of the beer promotion workers interviewed for this research said they would like to find another job, one which would provide a decent and regular income and which would be more in line with the traditional values of Cambodia. The negative stigma attached to this work has been reduced, mostly thanks to awareness campaigns in the media, but still exists, and many still hesitate before revealing to their relatives or friends who live in the countryside that they do such work.

The workers who get older are also very worried about their future, as they are afraid of competition from younger colleagues. One beer promotion worker employed by Cambrew said that since she turned 40, she was moved to an outlet which is less busy, and she lost part of her income. Two beer promotion workers of the age of 40, employed by CBL said they lie about their age to the company, since they believe this could lead to them losing their job due to age discrimination. According to Ti Sophana, Human Resource Manager of CBL⁷⁴, this would not happen, since the brewery states that in many cases the more experienced workers are selling more, even if they are older. The union CFSWF⁷⁵ confirmed not being aware of any age discrimination case by CBL management, but that some supervisors may discriminate against older workers under the pressure of some establishment owners.

The beer promotion workers who would like to find another job in the formal economy are facing difficulties due to their lack of skills and their low education level. The garment sector could be an option, but all the workers interviewed said they do not wish to work in the factories due to the very long working hours, which make it difficult to take care of a family. Many of them are single mothers with dependent children, and the stigma attached to their work makes it difficult to start a new stable relationship. According to AB InBev, owner of the brands Stella, Beck's and Budweiser, free three-month basic English lessons are available for beer promoters who have been working for six months or more, to provide additional job skills and to offer other potential alternatives and/or employment opportunities.

When asked what would be their plans for the future, a majority of the beer promotion workers answered that if they could save some money, they would like to open a little shop or go back to the countryside. With incomes which usually do not even allow them to meet their basic needs, these plans are more dreams than potential realities.⁷⁶

⁷⁴ Interview with Ti Sophana, Human Resources Manager of CBL, 29 December 2011.

⁷⁵ Interview with a CFSWF union leader at CBL on 29 November 2011.

⁷⁶ Response of AB InBev to a draft version of this report. E-mail received 6 August 2012.

13. Response from beer companies

All beer companies mentioned in this report were given the opportunity to review a draft version of this paper and provide SOMO with comments on factual mistakes, misunderstandings and/or their vision of the situation in Cambodia. Of the all the companies, the following made use of this opportunity and provided SOMO with comments on the report: Heineken, Carlsberg, Bavaria, Diageo, AB InBev, Khmer Brewery and Asia Pacific Breweries / Cambodia Brewery Limited. Where applicable, these comments have been incorporated in the report, other or overall comments are presented below. The other companies, namely San Miguel Corporation, SAB Miller, Asahi Breweries and Kingdom Breweries did not respond to a draft version of the report.

13.1. Heineken

In its response⁷⁷ to a draft version of this report, Heineken agreed or made commitments regarding the following issues:

- ❑ Heineken agreed to take initiative on enforcing the BSIC Code of Conduct, with the remark that other parties should also take their responsibility in doing so.
- ❑ The company agreed that beer promoters should receive a clear statement of wage payments.
- ❑ Heineken committed to check whether the company's practice with regard to extension of temporary contracts and conversion into permanent is done according to Cambodian legislation and take action if this is not the case.
- ❑ The company committed to continue and where possible improve training and education for beer promoters.
- ❑ The company agreed to look into the issue of the number of transportation vans and/or pick up points for beer promotion workers.

Besides commitments, Heineken also criticised some methodological points in the report. These, together with SOMO's response (in italics) are detailed below.

- ❑ The report is unscientific.
Research carried out for this report complies with requirements for studios and accurate research. Moreover, this report should be seen in the context of earlier research into the same topic (see chapter 2), and is meant to give an illustration of and provide new details on an earlier identified problem. Current report is meant to illustrate the situation of beer promotion women at a particular point in time, highlight the fact that although improvements have been made, still there are a number of issues that these workers face and hence have to be dealt with by the beer brands they are employed by.
- ❑ Outcomes or percentages mentioned in the report are not in line with (or are not the same as) outcomes of the Indochina research or earlier SOMO research on the topic.
This report is meant to monitor changes in the situation of beer promoters and hence outcomes can differ from previous reports. Furthermore, percentages mentioned in the report refer to respondents of the field research, which can be seen as a case study to illustrate the current situation on the ground. To be able to report percentages which are applicable to the sector as a whole, more extensive research is needed.
- ❑ A lack of sufficient Cambodia context in describing issues as e.g. a living wage.
All issues described in the report are based on interviews with beer promotion workers and different stakeholders. With regards to living wage, a comparison is made with the garment sector. Other

⁷⁷ Response of Heineken to a draft version of this report. E-mail received 13 April 2012.

sectors, like the public sector have not been considered, as here just as with the garment sector, wages are not enough to make a decent living and people employed need to resort to other means (doing a second job, corruption, etc.) to make ends meet.

- Using specific (out of line) examples, such as the case of a beer promoter who drinks up to 5-15 bottles of beer while working.

These specific examples are not used to make the impression that this is general practice among all beer promoters. These examples illustrate the fact that the situation on the ground can differ significantly from figures presented by BSIC or the beer companies.

- The report is negatively biased towards Heineken through the more attention which the company receives in comparison with other brands on the Cambodian market.

The report clearly shows that working conditions for beer promoters working for companies like Heineken and other members of BSIC are better than for those working for non-BSIC members.

Furthermore, Heineken not only has a responsibility for its own business, but as a leading global beer brand also for improving the standards in the sector.

13.2. Carlsberg

In its response⁷⁸ to a draft version of this report, Carlsberg stated the following:

- On the lack of clarity about how beer promoters' wages and performance incentives are calculated: 'none of our beer promoters is 'cheated' and all numbers and records have been registered at Cambrew and available for them [the beer promoters] upon request. However, based on information [from this report], Cambrew is revising its systems and will make the calculations available for the beer promoters each month, so they can be clear about their salaries.'
- On sitting and drinking with customers, the company stated that although the BSIC is making continuous efforts to stop beer promoters from drinking with customers, Carlsberg understands that it is a continuous process and that the company is working on lowering the numbers of beer promoters who drink with customers.
- On freedom of association, the company stated that Cambrew always welcomes any suggestions that can help the company to further improve the working conditions and welfare of its employees. 'We [Cambrew] are open to discussion with the unions who truly represent the benefits and interests of the vast majority of our employees.'
- On the overall recommendations (see Chapter 15 below): 'We [Cambrew] will take them into consideration and take appropriate actions soon'.

13.3. Bavaria

Bavaria gave the following response⁷⁹ to a draft version of this report:

'Bavaria is aware of the way beer is sold in outlets in Cambodia. Despite the fact that Bavaria does not sell its beer directly in Cambodia [i.e. but does so through local retailers], we deeply regret if working conditions of the involved beer promoters is below par. Although Bavaria has no direct influence on the local working conditions in Cambodia, the company will gladly grant its cooperation to initiatives intended to improve the working conditions of beer promoters in the future.'

⁷⁸ Response of Carlsberg to a draft version of this report. E-mail received 17 April 2012.

⁷⁹ Response of Bavaria to a draft version of this report. E-mail received 14 April 2012.

13.4. Diageo

Diageo did not have specific comments on the contents of this report, however, the company stated⁸⁰ that 'Diageo remains committed to BSIC and its goal to implement the code of conduct for beer promoters'.

13.5. AB InBev

In its response⁸¹ to a draft version of this report, AB InBev stated that the company recognises its responsibility to 'to influence those with whom we do business to help ensure fair compensation' for its beer promoters. The company also agreed to review the findings of this report with its local distributors.

13.6. Khmer Brewery

Khmer Brewery Limited did not have any comments or corrections on a draft version of this report.⁸²

13.7. Asia Pacific Breweries / Cambodia Brewery Limited

Asia Pacific Breweries and Cambodia Brewery Limited have jointly responded to a draft version of this report, since Asia Pacific Breweries is with 80% the majority shareholder of CBL. The responses have been incorporated in the report.

⁸⁰ Response of Diageo to a draft version of this report. E-mail received 24 July 2012.

⁸¹ Response of AB InBev to a draft version of this report. E-mail received 6 August 2012.

⁸² Response of Khmer Brewery Limited to a draft version of this report. E-mail received 25 July 2012.

14. Conclusions

The BSIC Code of Conduct, which was established in 2006, is being implemented among its member companies Asia Pacific Breweries, Cambodia Brewery Limited, Cambrew Ltd., Carlsberg a/s, Guinness and Heineken International. Through its implementation, improvements have been made in the beer promotion work, including awareness of workers' rights, lower alcohol consumption, less instances of prostitution and less cases of sexual harassment. It has to be noted that these improvements have mainly had their effect on beer promotion workers promoting BSIC beer brands.

Although the implementation of the BSIC Code of Conduct has improved the working conditions for those working in the beer promotion industry, there are still a significant number of issues to be dealt with to provide decent working conditions for beer promotion workers. These are listed below.

- ❑ The **income** of beer promotions workers is not sufficient to meet their basic needs. The vast majority of the beer promotion workers reported earning on average less than 100 USD per month, but when asked how much their basic needs are, their answers came to an average of 177 USD per month. Estimations for a living wage range from 138 USD to 281 USD. To fill the wage gap, they engage in several other activities besides their jobs as beer promotion workers: working on their day off or on public holidays, drinking with customers, getting a second job, or in a few instances even engaging in prostitution.
- ❑ Standard 1 of the BSIC Code of Conduct stipulates that every beer promotion worker should receive a **fixed monthly basic salary**. This is the case at Attwood, CBL and Cambrew, the situation is unclear at Guinness. There are numerous arrangements among non-BSIC members, ranging from interviewees explaining that they have never heard of basic wages paid by their brands (such as at Bavaria and Hollandia), interviewees reporting that all the workers promoting their brand are getting a basic wage (such as at Cambodia beer), and interviewees stating that there are workers in both situations (such as at San Miguel).
- ❑ Often it is not clear for the beer promotion workers how their **performance fees** are calculated, and some feel cheated in the way the amounts on their pay slips are calculated at the end of the month. Some corrupt outlet owners demand money from the beer promotion workers who are earning good commissions for the sales done in their establishment.
- ❑ Since companies are obliged to pay an overtime premium on **off-days**, some companies (CBL and Cambrew) have often refused to give workers a shift on these days – while the workers need these to supplement their income.
- ❑ The beer promotion workers often do not dare to take their **annual leave days**, out of fear of losing their job or part of their income. In some cases, they are not allowed to take all their annual leave.
- ❑ Although it is forbidden by most of the breweries' codes, 82.5% of the beer promotion workers interviewed for this research are still **drinking beer with customers** (74% for the BSIC brands, and 96.8% for the non-BSIC brands), 80.2 % are still sitting with consumers (72.2 % in the case of workers promoting the BSIC brands, and 93.8% for those promoting non-BSIC brands). This is a direct consequence of their low income, since the main reasons they give for this behaviour are to increase the sales, to try to reach their targets and to receive tips. The need for education regarding the effects of drinking while working was also one of the conclusions of the 2010 Indochina report.
- ❑ The companies that are members of BSIC have taken concrete steps to fight against the **abuse and sexual harassment** of the beer promoters, and to improve the image of these workers in society. Their initiatives have helped to reduce the intensity and frequency of aggressive behaviour, but 61% of the BSIC brands beer promotion workers interviewed have

still experienced some form of disrespectful behaviour or unwanted touching in the last 12 months, compared to 79% of the workers promoting non-BSIC brands. Many still find it useless to protest when such things happen. The need for education on a zero-tolerance sexual harassment policy for all beer promoters was also one of the conclusions of the 2010 Indochina report.

- Of 86 beer promotion workers who were asked if they engage in **prostitution**, only around 7% admitted to doing so, to supplement their low incomes, but 12.7% answered that they see other beer promoters doing it occasionally. All those employed by BSIC brands had received some form of training on HIV (which is not the case for employees of other brands). The use of condoms during paid sexual intercourse remains, however, a problem, due to the drunkenness of the worker or of the customer. The antiretroviral drugs are available for free in a number of hospitals and a network of NGO clinics, but the treatment of opportunistic infections of people living with HIV/AIDS is not, and that is a cost which is very difficult to bare for beer promotion workers.
- Several cases of violations of **trade union rights** (discrimination, intimidations, threats) have been found in Cambrew against members and leaders of the Cambodian Food and Service Workers' Federation (CFSWF). 21 beer promotion workers who participated into a strike led by CFSWF were sanctioned by being transferred to less popular outlets, which means they lose income. This is a violation of the OECD Guidelines for Multinational Enterprises which states that a company should 'respect the right of workers employed by the multinational enterprise to have trade unions and representative organisations of their own choosing recognised for the purpose of collective bargaining, and engage in constructive negotiations'.⁸³
- A vast majority (96.2%) of the beer promotion workers employed by BSIC brands have signed a **contract**, and 92.5% say they have received a copy of this contract. By contrast, only 15.6% of those employed by non-BSIC brands remember having signed a contract, and only 6.2% say they have received a copy of this contract. However, whether or not they have a contract, the majority of the beer promotion workers have only very limited knowledge of their rights. Many of them rely solely on information given by their supervisor or colleagues, which may lead to abuses.
- The **negative stigma** attached to the beer promotion work has been reduced, but still exists. Major obstacles for finding other work are the lack of skills and the low education levels of most beer promotion workers.

⁸³ OECD Guidelines for Multinational Enterprises, chapter V, 1. b.

15. Recommendations

The beer promotion workers are key players in the profits made by beer companies in Cambodia. At this stage, hardly any brewery would try to sell beer in Cambodians restaurants, bars, beer gardens and karaoke bars without paying (usually young) women who go from customer to customer to boost beer companies' sales. The circumstances of the beer promoters can be improved by following the recommendations below.

For BSIC brands

1. As this report demonstrates, while working conditions are better for workers promoting BSIC brands than those promoting non-BSIC brands, the working conditions are still unacceptable for many workers. Furthermore, there still remains work to be done to **fully implement the 2006 Code of Conduct**, and we urge BSIC to redouble its efforts to ensure the Code is fully implemented as soon as possible.
2. BSIC should **update its Code of Conduct** to include recommendations on freedom of association consistent with international labour standards as well as the responsibility of outlet owners.

For non-BSIC brands

1. Other brands employing beer promotion workers in Cambodia should either **join the BSIC, or adopt the BSIC Code of Conduct**. Through its Code of Conduct, the BSIC (with currently 6 members – Asia Pacific Breweries, Cambodia Brewery Limited, Cambrew Ltd., Carlsberg a/s, Guinness and Heineken International) has established minimum standards to improve the health and working conditions of beer promotion workers. Although the Code of Conduct is not fully implemented, the situation of the workers promoting brands or breweries members of BSIC is generally better than those who promote non-BSIC brands or breweries.

For all beer brands

1. All beer promoters should receive a **fixed monthly basic salary**. This is also required by the Code of Conduct of the Beer Selling Industry Cambodia (BSIC). The amount of this salary must allow the beer promotion workers to meet their basic needs. Beer companies must not factor in incentives and tips into the basic income, as relying on these sources to make ends meet often forces workers to accept mistreatment and abuse to reach the targets needed to earn the incentive bonus. The 66 USD minimum wage in the garment sector should not be the benchmark for beer promotion work. A fixed monthly basic wage should not be under 138 USD.
2. Beer promotions workers with a fixed monthly basic wage as well as workers working on a commission base must receive a **clear statement of wage payments** as well as a clear accounting of beer sales as used to calculate incentives. This is a requirement of the BSIC Code of Conduct.
3. Annual fixed-term contracts should be converted to **undetermined duration contracts** when the total length of employment exceeds two years, as required by Cambodian labour law.

4. The **right to freedom of association and to bargain collectively** must be respected in practice. Employers must recognise and bargain with duly elected representatives of the workers on, among others things, what can be considered a living wage, allowing beer promotion workers a decent living. Unions led by management representatives are not considered free and representative. The OECD Guidelines for Multinational Enterprises states that a company should 'respect the right of workers employed by the multinational enterprise to have trade unions and representative organisations of their own choosing recognised for the purpose of collective bargaining, and engage in constructive negotiations'.⁸⁴ In the companies where they do not exist, the creation of free and representative unions would help the facilitation of a social dialogue. Also, it would improve the implementation of the BSIC Code of Conduct, for instance by facilitating the complaints of workers who have been subject to sexual harassment.
5. Employers should regularly provide **training sessions for beer promoters**. During these sessions, several problems of the beer promotion work should be handled. A strong emphasis should be placed on the risks associated with drinking alcohol in general and during pregnancy in particular. There are various cases known of pregnant beer promotion workers who only reduce but do not cease alcohol consumption while being pregnant. Other important element should be how to handle customers that harass beer promoters, about workers' rights in combination with the Cambodian law, about aging beer promotion workers and about freedom of association.
6. The ideal working relation for a beer promotion worker is to be employed by the brewery whose beer she represents. Nevertheless, beer companies as well as owners of breweries – even if these owners have a minority interest in the (local) brewery – should **exercise responsibility towards the owners of the outlets** where their promoters work and make sure that corruption and abuse by the outlet owners is not occurring. The OECD Guidelines for Multinational Enterprises states that a company should 'use its leverage to influence the entity ... with which it has business relationships ... causing the adverse human rights impact to prevent or mitigate that impact'.⁸⁵ The Guiding Principles on Business and Human Rights by UN special representative John Ruggie states that business enterprises 'should seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts'.⁸⁶
7. As part of beer companies' responsibility towards outlet owners, companies should provide **training sessions for establishment owners**. These trainings should emphasize establishment owners' responsibility regarding workers' rights and health and safety issues of beer promoters. Also, through these trainings, establishment owners should be made aware that the practice of removing beer promotion workers to less feasible places where they earn less (as a punishment because of their union or collective activities) is not to be continued. It should be made obligatory for outlet owners to follow these training sessions.
8. Companies employing beer promotion workers should support **the cost of the transport to hospital or NGO clinics** for testing or treatment for HIV/AIDS as well as opportunistic diseases, and contribute to the treatment of these workplace diseases.

⁸⁴ OECD Guidelines for Multinational Enterprises, chapter V, 1. b.

⁸⁵ OECD Guidelines for Multinational Enterprises, chapter IV, 43.

⁸⁶ John Ruggie, 'Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework', Principle 13, 21 March 2011, Advanced Edited Version, p. 14, <http://www.businesshumanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>

9. Companies employing beer promotion workers should increase **the number of vans and/or pick up points** so that workers do not lose excessive time in transport between the outlets and their home.
10. In many outlets, along with beer promotion workers, **hostesses** have become equally vulnerable to sexual harassment. Even though hostesses are employed by the outlets themselves, hostesses also work in the sphere of influence of beer companies. The 'entertainment' they provide to the customers pushes these customers to stay longer in the bar, restaurant, karaoke or nightclub, and to buy more beers, which increases the beer companies' revenues. Hence, beer companies should assume equal responsibility for the safety and well-being of hostesses working in outlets. Here again the OECD Guidelines for Multinational Enterprises are applicable with its statement that a company should 'use its leverage to influence the entity ... with which it has business relationships ... causing the adverse human rights impact to prevent or mitigate that impact'.⁸⁷
11. **Vocational training programmes** for beer promoters should be facilitated by beer companies. Beer promotion workers have very few other work alternatives due to their low education level, their lack of skills and sometimes due to the stigma attached to their work (although this negative stigma has decreased recently). They worry about their future, when they get older and may not be able to face the competition of younger employees.

For establishment owners

1. Owners must **take responsibility for what happens in their establishments**. Owners must respond immediately and decisively to reports of harassment, intimidation, violence or other unwanted behaviour. Workers should not face any form of discrimination for reporting such behaviour.
2. In many outlets, **hostesses** have become equally vulnerable to sexual harassment. They are employed by the establishment owners, not by the breweries or importers of beers. Owners need to safeguard the welfare of these workers as well. Outlet owners should assume responsibility for the hostesses, and, working together with the beer companies, ensure that they are provided with the same protection afforded to beer promoters.
3. Outlet owners need to **follow the training sessions on workers' rights and health and safety issues** provided by beer companies.

For the Government of Cambodia

1. Ensure that **the right to freedom of association and collective bargaining** is respected in the beer promotion sector and across the country.
2. Ensure that customers of outlets who have committed **crimes of sexually harassing beer promoters** be held liable for their deeds and have justice meted out to them in court.
3. To **facilitate a social dialogue** between employers and unions to establish a minimum wage setting mechanism in the beer industry.

⁸⁷ OECD Guidelines for Multinational Enterprises, chapter IV, 43.

16. Appendix

BEER SELLING INDUSTRY CAMBODIA (BSIC) CODE OF CONDUCT FOR BEER PROMOTERS (BPS)⁸⁸

This document reflects the agreements made by the members of the beer selling industry in Cambodia. This Beer Selling Industry Cambodia (BSIC) will emphasise the occupational health and safety issues of beer promoters to its members, outlet owners, consumers, and represent the industry at a national and international level.

STATEMENT OF INTENT

The Beer Selling Industry Cambodia (BSIC) recognizes its responsibility to improve the health and working conditions of beer promoters selling beer on the Cambodian consumer market. The industry body agrees on the below industry standards and will use its influence to ensure that other stakeholders also comply with these standards. All members of the industry body have agreed on the standards.

The objective is to improve the health, safety and working conditions of beer promoters by setting industry standards.

INDUSTRY STANDARDS

The following seven standards are minimum standards that the BSIC members have recognized as being critical to comply to in order to improve the health, safety and working conditions of BPs.

1. Employment status

The employment status of BPs will have to comply with the Cambodian Labour Law (1997). BPs must have a transparent, written contract, be they casual workers, full-time, or part time employees. The BPs will receive a copy of the contract. BPs will receive a fixed monthly base salary and will always be remunerated in accordance with the Cambodian rules and regulations. Incentive systems can be put in place on top of the basic salary but should be set up in such a way that they do not lead to unhealthy or unsafe situations. The BSIC rejects commission-only work.

2. Organization of work

BPs will be clearly informed on whom their supervisor is, and that a procedure is in place for them to express any grievances in relation to their work. The procedure includes the use of a database where all grievances must be registered. This shall be linked with standard 6 on harassment.

3. Uniform

BPs who sell BSIC member brands will receive (company) branded uniforms or a clear sash with the brand name so that BPs are clearly visible and identifiable as workers selling or promoting beer. BPs

⁸⁸ The 2006 BSIC Code of Conduct is available online at the BSIC website, Media updates, "BSIC Code of Conduct Of English", http://www.bsic.com.kh/index.php?option=com_content&view=article&id=20&Itemid=34 (16/04/2012)

who are off-duty shall not wear the uniform. Uniforms should be decent, taking into account the input from the BPs themselves.

4. Transport

The employer of the BP will ensure transport from the venue to the home of the BP as soon as the BP has finished his/her work in a particular venue, the provinces included. This will minimize the risk of BPs being harassed after working hours on their way back home. The BP is offered and encouraged to make use of the company transport.

5. Training and Information

All members of the BSIC will offer a standard and comprehensive training package as part of the orientation training of BPs. This training shall include; how to deal with difficult customers, alcohol and drug use, workplace harassment, relationships between men and women, gender roles and responsibilities, healthcare options, sexual and reproductive health, contraceptive methods, and HIV/AIDS and STI education and prevention. A refresher training shall be organised at least once a year.

6. Harassment

The BSIC declares a zero-tolerance approach with respect to abuse and sexual harassment of BPs. All BSIC members will develop and implement an anti-sexual harassment policy for company staff as a part of personnel contracts and code of conducts. The policies will be clearly communicated to employees and sufficient training will be provided to emphasize that sexual harassment will not be tolerated. Sanctions will be taken if rules are broken.

The BSIC will clarify its expectations vis-à-vis the outlet owners in relation to providing a safe working environment for BPs, including the zero-tolerance statement. All BSIC members will maintain an accurate and up-to-date abuse and harassment reporting system and share this within the BSIC. It is compulsory to register all reported cases. In the event of harassment, the BSIC members will firstly discuss with the outlet owners on a course of action. Unless actions are taken, the BSIC members will act together with the ultimate sanction of withdrawing all BPs (from all brands represented by BSIC members) from venues where serious or persistent physical or sexual abuse occurs, and will make a public statement to ensure that other stakeholders are also warned.

7. Alcohol

The industry body acknowledges the risk that many BPs may be pressured to drink beer in order to support their sales or to please the customer. It is the policy of the BSIC that during working hours, BPs should not sit or drink with consumers. Members of BSIC will inform BPs on this rule and train BPs on how to refuse a beer offered without insulting the consumer and on what steps to take if one is forced to drink.

October 2006

ANNEX 1

BSIC organisation

The members of BSIC believe that self-regulation is currently the best way of ensuring BSIC members will comply with the Code. An NGO will be requested to evaluate the compliance on a regular basis.

The BSIC members inform their distributors on the Code, supervise and monitor the compliance and take actions if the distributor does not comply with the Code. Any beer-selling party in Cambodia is welcome to join the BSIC as long as this party ensures compliance to the code of conduct. Therefore, also beer distributors themselves are welcome to sign the code of conduct and become member of the BSIC. Regular meetings amongst BSIC members will be organised.

ANNEX 2

Communication with external parties

The BSIC will function as a platform for communicating with the government (governmental taskforce includes the Ministries of Labour, Interior, Commerce and Women's Affairs) to cooperate on a joint approach to improve the situation of BPs and related matters. The BSIC will also respond to media issues and share information on its activities by issuing press releases and by informing stakeholders via the internet sites of the individual BSIC members.