

PROFESSIONAL GUIDELINES OF THE ARBITRATION COUNCIL FOR LABOUR DISPUTE RESOLUTION IN CAMBODIA

-- PREAMBLE --

- The **Professional Guidelines of the Arbitration Council** commenced on 22 - 24 December 2004 in the annual meeting of the Arbitration Council in Sihanouk Ville and does not constitute a part of the rules or procedures of the Arbitrators.
- Arbitrators consider that these **Professional Guidelines of the Arbitration Council** are important for professional labour dispute resolution in Cambodia in order to:
 - Maintain, to the highest extent possible, the integrity, dignity and good reputation of the Arbitration Council which demands each Arbitrator to conduct themselves appropriately in the public eyes and in the hearing process or during pre-hearing conciliation.
 - Create of an amicable and trusting atmosphere and voluntary compliance with the Arbitral Awards or Arbitral Decision by parties are important elements for successful arbitration process.
- All Arbitrators have agreed and promised to steadfastly follow the established **Professional Guidelines of the Arbitration Council**.

PURPOSES AND BASIC PRINCIPLES

To enhance the trust and compliance with Arbitral Awards by parties, it is important that each Arbitrator adhere to the following basic principles:

- Maintain independence, neutrality, impartiality, equality and transparency of the arbitration process including at the pre-hearing conciliation.
- Maintain confidentiality of parties' private information.
- Be responsible and abide by the laws and procedures in effect.
- Be punctual, show respect between Arbitrators and be respectful of parties and witnesses.

PRINCIPLES IN DETAILS

1st Guideline: Independence, Neutrality, Impartiality, Integrity and Justice

All Arbitrators promise to uphold independence, neutrality, impartiality, integrity and justice in the arbitration process.

2nd Guideline: Equality

All Arbitrators promise to maintain equal treatment among all disputant parties.

3rd Guideline: Punctuality and Amicability

All Arbitrators promise to be patient, tolerant and courteous, punctual, of good humor and firm in carrying out his/her entrusted function in the amicable, peaceful and fair resolution of disputes according to the law or the rules of equity where there is no relevant law.

4th Guideline: Ethical Acts

All Arbitrators promise to make all efforts to act morally and avoid immoral social conduct. All Arbitrators promise to avoid phone calls during the hearing or pre-hearing conciliation.

5th Guideline: Honorable Role

All Arbitrators promise that they will not be involved in any activities which may jeopardise the reputation or independence of the Arbitration Council or in any activities to use the Arbitration Council for political benefits, and consider and uphold the role of Arbitrators as an honorable role.

6th Guideline: Delay

All Arbitrators promise to make reasonable efforts to prevent delaying tactics, harassment of parties or other abuses or disruption of the process. Regarding this point, upon receipt of a disputant party's request to withdraw at any stage of the proceeding, the concerned Arbitrator should carefully determine the reason for the request or challenge of the parties, and should consult with the other arbitrator-members of the panel prior to making a determination, and make effort to avoid unfair delay or expense to another party due to withdrawal.

7th Guideline: Compliance with Applicable Rules and Legal Procedures

All Arbitrators promise to comply with applicable rules and legal procedures and neither exceed authority nor do less than is required.

8th Guideline: Impartiality

All Arbitrators promise to avoid a situation that is likely to affect impartiality or create an unfavorable appearance of partiality or bias. To ensure the achievement of this point, all Arbitrators promise to:

- make reasonable efforts to determine interests or relationships he/she may have with the disputant parties;
- disclose any financial, personal or material interest learned during the Arbitration Process;
- disclose any actual or perceived interest in or relationship with (existing or past material, financial, business, professional, family or social relationship) all parties and other Arbitrators in the panel as early as learned or identified or reasonably suspected;
- avoid entering into any financial, business, professional, family or social relationship or acquiring any financial or personal interest both during the arbitration proceeding period and for a reasonable period of time after the completion of the case;
- avoid improper communication with any party (avoid any discussion with a party or its representative without the presence of the other party; except when all parties make a request for or there is a consent by the other party to a separate discussion);
- ensure that written communication to one party is sent to another party;
- make no final determination concerning the matter under consideration without giving a reasonable opportunity for parties to respond;
- provide no strategic advice to any disputant party, but should help the parties to understand their duties and necessary evidence or material fact to be proved.

9th Guideline: Honesty and Trustworthiness

All Arbitrators promise to be honest and trustworthy at all times and in all circumstances. This means that an Arbitrator should avoid accepting cases beyond reasonable time commitments available.

10th Guideline: Confidentiality

All Arbitrators promise to maintain confidentiality at all times and to not use parties' confidential information to gain a personal advantage or advantage for others and, unless otherwise advised or agreed on by the relevant party, should treat documents or information provided by the party as confidential, except with respect to the other disputant party and Arbitrators in the arbitration panel. While an Arbitral Award is necessary and for good purposes a public document, the arbitration panel should avoid including unnecessary or irrelevant statements of fact or allegations in the Award.

11th Guideline: Self-Determination and Responsibility on Cases

All Arbitrators promise to make decisions in a just, equal, independent, deliberate and reasonable manner. To ensure achievement of this point, every Arbitrator promises to:

- make no delegation of duty or power to decide;
- make best efforts to find the applicable and relevant facts, not merely rely on the parties' presentation and argument;
- make best and amicable efforts to reach consensus in every decision and/or Arbitral Award;
- if any disagreement cannot be resolved prior to issuing an Arbitral Award, the one who dissents should clearly inform the other Arbitrators in the arbitration panel within a reasonable period of time and as early as possible regarding the dissenting opinion; and it must be made in writing and circulated to other arbitration panel members at least 24 hours before the deadline to issue the Arbitral Award;
- uphold reading of laws and previous arbitral decisions, except where there are explicit reasons to change the reading of the law or previous decisions;
- provide as clear and precise reasoning as possible to each decision.

APPROVAL AND ENFORCEMENT

- The **Professional Guidelines of the Arbitration Council** were approved on 16 February 2008 during the second Regular Arbitrators' Meeting in 2008 and is enforceable from this date of approval.