

**KINGDOM OF CAMBODIA  
NATION KING RELIGION**

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**THE ARBITRATION COUNCIL**

**Case number and name: 110/06-Golden Crown**

**Date of Award: 15 December 2006**

**ARBITRAL AWARD**

(Issued under Article 313 of the Labour Law)

**ARBITRATION PANEL**

Arbitrator chosen by the employer party: **Ing Sothy**

Arbitrator chosen by the worker party: **An Nan**

Chair Arbitrator (chosen by the two Arbitrators): **Kong Phallack**

**DISPUTING PARTIES**

**Employer party:**

Name: **Golden Crown Cambodia Co., LTD**

Address: Suon Vattanak, Building F, Sangkat Chom Chao, Khann Dangkor, Phnom Penh

Telephone: 012 838 094

Representative:

- |                      |                                       |
|----------------------|---------------------------------------|
| 1. Mrs. Sun Guo Hong | Head of the Administration Department |
| 2. Mr. Dong Sokchea  | Interpreter                           |

**Worker party:**

Name: **Local C.CAWDU at Golden Crown Factory**

Address: # 6 C, Sangkat Tuol Tompoung 1, Khann Chamkarmorn, Phnom Penh

Telephone: 023 210 481/ 012 988 623/ 012 709 509      Fax: N/A

Representative:

- |                     |                                                             |
|---------------------|-------------------------------------------------------------|
| 1. Mrs. Lim Thida   | Officer of C.CAWDU                                          |
| 2. Mrs. Meas Vanney | Officer of C.CAWDU                                          |
| 3. Mr. Ann Saroeun  | Vice-President of the local C.CAWDU at Golden Crown Factory |
| 4. Mrs. Trea Sokhim | Secretary of the local C.CAWDU at Golden Crown Factory      |

**ISSUES IN DISPUTE**

(In the Non-conciliation Report)

The local union demands that the company deduct union contribution fees. However, the company does not agree to deduct union contribution fees because the company is very busy.

## **JURISDICTION OF THE ARBITRATION COUNCIL**

*The Arbitration Council derives its power to make this Award from Chapter XII, Section 2B (Article 309 to 317) of the Labour Law (1997); the Prakas on the Arbitration Council 099/04; the Arbitration Council Procedural Rules which form an Annex to the same Prakas; and the Prakas on the Appointment of Arbitrators 099/06 (Fourth Term).*

*An attempt was made to conciliate the collective dispute that is the subject of this Award, as required by Chapter XII, Section 2A of the Labour Law. The conciliation hearing was unsuccessful, and the non-conciliation report No. 1705 KKBV/AK/VK dated 23 November 2006 was submitted to the Secretariat of the Arbitration Council on 23 November 2006.*

## **HEARING AND SUMMARY OF PROCEDURE**

**Place of hearing:** Arbitration Council, Phnom Penh Center, Building A, Sothearos Blvd.,  
Sangkat Tonle Basak, Khan Cham Kar Mon, Phnom Penh

**Date of hearing:** 5 December 2006 (From 2:30 p.m. to 5:30 p.m.)

### **Procedural issues:**

On 12 November 2006, the Department of Labour Dispute received a complaint from C.CAWDU regarding a demand that the company improve some work conditions. Upon receipt of the complaint, the Department of Labour Dispute assigned an officer(s) to attempt to resolve the labour dispute. The last conciliation was on 16 November 2006 with the result that five of six issues were resolved. The one unresolved issue was referred to the Arbitration Council on 23 November 2006.

After receiving the case, the Arbitration Council summoned the employer party and the worker union in the factory to a hearing on 5 December 2006 at 2:30 p.m. Both parties appeared as invited by the Arbitration Council.

On the hearing day, the Arbitration Council attempted to further conciliate the issue but the issue remained unresolved. Therefore, in this award, the Arbitration Council will consider the demand based on evidence and findings of fact as follows:

## **EVIDENCE**

**Witnesses and experts:** N/A

## **Documents, Exhibits and other evidence considered by the Arbitration Council**

Provided by the employer party:

- Internal Work Rules of the Golden Crown Company, registration No. 46 KKBV/AK dated 4 May 2005

- Letter to authorize Ms. Sun Guo Hong [to appear on behalf of the company] dated 5 December 2006
- Minute of the collective labour dispute settlement dated 16 November 2006

Provided by the worker party:

- Letter No. 201/06/SB.K.K dated 29 November 2006 regarding a summary of the labour dispute at Golden Crown Factory
- Certificate of registration of the local C.CAWDU at Golden Crown Factory, registration No. 983 KKBV/VK, dated 2 August 2006.
- Letter No. 925 dated 2 August 2006 regarding the confirmation of registration of the local C.CAWDU at Golden Crown Factory which was registered under number 983 KKBV/VK, dated 2 August 2006
- Letter No. 176/06/SBKK dated 10 October 2006 by C.CAWDU regarding a request to help solve some workers' problems with Golden Crown Factory
- Letter dated 28 August 2006 by C.CAWDU regarding a request for discussion on the matter of deducting union contribution fees from union members
- Request letter with 671 workers' thumbprints to request the company to deduct US\$0.25 for monthly union contribution
- Statute of the local C.CAWDU at Golden Crown Factory, registered on 2 August 2006.
- Model of agreement between C.CAWDU and the local C.CAWDU at Golden Crown Factory with Golden Crown Factory.

Provided by the Ministry of Labour and Vocational Training:

- Letter No. 1730 K.K.B.V regarding a request to resolve a collective labour dispute at Golden Crown Garment dated 30 November 2006 from the Minister of the Ministry of Labour and Vocational Training.
- Report on the resolution of the collective dispute at Golden Crown Company No. K.K.B.V./A.K/V.K from the head of the Department of Labour Dispute dated 23 November 2006
- Minute of the collective dispute conciliation dated 16 November 2006.

Provided by the Secretariat of the Arbitration Council:

- Letter of invitation to the worker party to attend the hearing No. 536 LKA dated 27 November 2006.
- Letter of invitation to the employer party to attend the hearing No. 535 LKA dated 27 November 2006.

## **FINDINGS OF FACT**

- Having examined the documents that the parties submitted to the Arbitration Council
- Having examined the report of the collective dispute conciliation
- Having listened to the statements of the worker party and the employer party.

### **The Arbitration Council finds that:**

- Golden Crown Garment Factory employs 920 workers and has only one union, the local C.CAWDU at Golden Crown Factory.
- The local C.CAWDU at Golden Crown Factory was established in June 2006 and was officially registered by the Ministry of Labour on 2 August 2006. At the time of the hearing, the union had 614 members. After the hearing the union provided additional documentation which showed that 671 workers requested the company to deduct US\$0.25 from their wages for the union contribution fee. The company does not reject the list of members' names provided by the union.
- On 28 August 2006, the union submitted a request to the company to deduct 1,000 riel from the wages of each worker for the purposes of the union contribution fee. The union had a negotiation with the company on 12 September 2006 [in regards to the same issue] but was not successful.
- On 10 October 2006, the union lodged a complaint to the Ministry of Labour and Vocational Training and conciliation by the Ministry officer(s) was held on 16 November 2006. This negotiation was also unseuccessful.
- The Union demanded that the company deduct wages from workers for the purpose of union contribution fee for the following reasons:
  1. The union has difficulty in collecting the union fee by itself because the break time is too short;
  2. The union's statute requires all members to pay this contribution fee;
  3. Paragraph 2 of Article 129 of the Labour Law; and
  4. Prakas 305/01 dated 22 November 2001.
- The Company does not agree on the basis of Article 281 of the Labour Law which prohibits the employer from deducting the workers' wages for the purpose of union contribution fee.

## **REASONS FOR DECISION**

Article 129, paragraph 2, of the Labour Law mentions that *"...the worker can authorise deductions of his wage for dues to the trade union to which he belongs. This authorisation must be in writing and can be revoked at any time."*

In addition, Article 5 of Prakas 305/01 dated 22 November 2001 issued by the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation states, “*Any workers who are members of a union may request in writing to the employer at least 15 days in advance to deduct his wage to pay the union contribution in compliance with article 129 of the Labour Law.*”

In previous cases, the Arbitration Council decided that the employer shall deduct the union contribution fee if the union is properly registered and the workers who are union members made a written request to the employer to make a deduction from their wage in order to pay the union contribution fee (see Arbitral Awards 03/03-Tonga, 05/03-Top One, 62/04-Ecent, 94/04-Eternety Apparel, 99/04-AIA, 16/05-New Point World Trade Cambodia, 62/05-Zhin Tai, 106/06-Quick Sew).

On the other hand, Article 281 of the Labour Law states, “*All employers are forbidden to deduct union dues from the wage of their workers and to pay the dues for them.*”

In previous awards, the Arbitration Council has decided that “*the intention of Article 281 is to protect workers’ rights and to prohibit the employer from interfering in the affairs of the union under its influence as stated in Article 280*” (see Arbitral Award 62/05-Zhin Tai).

Article 280 states, “*Acts of interference are forbidden. Within the meaning of the present article, acts of interference are primarily measures tending to provoke the creation of worker organizations dominated by an employer or an employers’ organisation, or the support of workers organisations by financial or other means, on purpose to place these organisations under the control of an employer or an employers’ organization.*”

In this case the local C.CAWDU of Golden Crown Factory has been registered and the workers who are members of this union have written a letter to request the company to deduct the union contribution fee. Because the employer does not deduct the union contribution fee unilaterally [without authorisation from the employees], it is not interference with a view to gaining influence over the union. Thus, the employer must make deductions from the wages of workers who are members of the union, in order to pay the union contribution fee in case where those workers volunteer to have their wages cut with proper written request.

Based on the above facts, legal principles, and reasons the Arbitration Council makes its decision as follows:

#### **DECISION**

- Order the employer to deduct 1,000 riel from the wages of workers who are members of the local C.CAWDU at Golden Crown Factory in order to pay the union contribution fee after receiving written permission from those workers to having a deduction made to their wage.

**Type of Award: Non binding awards**

This Award will become binding after 8 days of the date of its notification unless one of the parties lodges a written opposition to the Ministry of Labour and Vocational Training through the Secretariat of the Arbitration Council within this time period.

**SIGNATURES OF MEMBERS OF THE ARBITRATION PANEL:**

Arbitrator chosen by the employer party:

Name: **Ing Sothy**

Signature: .....

Arbitrator chosen by the worker party:

Name: **An Nan**

Signature: .....

Chair Arbitrator (chosen by the two Arbitrators):

Name: **Kong Phallack**

Signature: .....