



KINGDOM OF CAMBODIA
NATION RELIGION KING

ក្រុមប្រឹក្សាអន្តរាជ្ញាភាព

THE ARBITRATION COUNCIL

Case number and name: 113/08-New Wide

Date of Award: 23 September 2008

ARBITRAL AWARD

(Issued under Article 313 of the Labour Law)

ARBITRATION PANEL

Arbitrator chosen by the employer party: **Mar Samborana**

Arbitrator chosen by the worker party: **Vong Vanna**

Chair Arbitrator (chosen by the two Arbitrators): **Ang Eng Thong**

DISPUTING PARTIES

Employer party:

Name: **New Wide (Cambodia) Garment Co., Ltd**

Address: Toul Pongror Village, Sangkat Chom Chao, Khan Dangkor, Phnom Penh

Telephone: 012 955 650

Fax: N/A

Representative:

- | | |
|--------------------|------------------------|
| 1. Mr. Long Heang | Representative of GMAC |
| 2. Mr. David Wange | Company manager |
| 3. Mr. Paul Chou | Head of Administration |
| 4. Mr. Tong Tek | Head of Human Resource |

Worker party:

Name: **Federation Union of Khmer Democratic Workers (FUKDW) and local union of Union of Khmer Democratic Workers at New Wide Factory (UKDW)**

Address: Prey Srorla Village, Sangkat Prey Sor, Khan Dangkor, Phnom Penh

Telephone: 092 760 098

Fax: N/A

Representative:

- | | |
|------------------|-------------------------|
| 1. Mr. Rim Bora | President of FUKDW |
| 2. Mr. Chim Bora | Vice-president of FUKDW |

3. Mr. Ing Leap President of local union of UKDW at New Wide factory
4. Ms. Suon Sophay Vice-president of local union of UKDW at New Wide factory
5. Mr. Khun Chun Secretary of local union of UKDW at New Wide factory
6. Ms. Srey Bora Head of group in sewing section
7. Ms. Yat Srey Nheb Head of group in sewing section
8. Ms. Srun Kanha Head of group in sewing section

ISSUES IN DISPUTE

(In the Non-Conciliation Report)

- 1- The workers demand that the company change from fixed duration contracts to undetermined duration contracts. The company states that it continues to use fixed duration contracts.
- 2- Four heads of groups demand that the company pay their position bonus that the company failed to pay to them in the past. The company party states that this bonus is provided only to those capable heads of groups who did good work and this is not a position bonus.

JURISDICTION OF THE ARBITRATION COUNCIL

The Arbitration Council derives its power to make this Award from Chapter XII, Section 2B of the Labor Law (1997); the Prakas on the Arbitration Council No. 099 dated 21 April 2004; the Arbitration Council Procedural Rules which form an Annex to the same Prakas; and the Prakas on the Appointment of Arbitrators No. 076 dated 10 May 2007 (Fifth 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 was unsuccessful, and the non-conciliation report No. 943 KB/AK/VK, dated 29 August 2008, was submitted to the Secretariat of the Arbitration Council on 2 September 2008.

HEARING AND SUMMARY OF PROCEDURE

Place of hearing: The Arbitration Council, Phnom Penh Center, Building A, Sothearos Blvd., Sangkat Tonle Basak, Khann Chamkarmorn, Phnom Penh.

Date of hearing: 9 September 2008 (from 2:00 p.m. to 5:00 p.m.)

Procedural issues:

On 13 August 2008, the Department of Labour Disputes received a complaint letter by the local union of UKDW at New Wide Company, dated 13 August 2008, regarding their demand for the company to improve working conditions. After receiving the complaint, the Department of Labour Dispute assigned officer to settle this labour dispute and the last

conciliation was held on 21 August 2008 with a result of 2 of 8 issues remained non-conciliated. The 2 non-conciliation issues were referred to the Arbitration Council on 2 September 2008.

Upon receipt of the case, the Secretariat of the Arbitration Council summoned the employer party and the worker party to the hearing and conciliation on the 2 non-conciliation issues on 9 September 2008 at 2:00 p.m. Both parties were present as invited by the Arbitration Council. The Arbitration Council attempted to further the conciliation but the parties did not reach agreement on any issue.

Therefore, the Arbitration Council will consider the 2 non-conciliation issues based on evidence and clarification by the parties in the hearing as follows:

EVIDENCE

Witnesses and experts: N/A

Documents, Exhibits and other evidence considered by the Arbitration Council

Provided by the employer party:

1. Statute of New Wide (Cambodia) Garment Company, dated 20 February 2006.
2. Announcement by the company to allow workers to take one additional day-off during Khmer New Year, dated 19 March 2008.
3. Announcement by the company regarding national holidays in May 2008, dated 5 May 2008.
4. 36 pages long of list of names of workers whose six months contract has expired.
5. List of names of workers who started their employment in 2006.
6. 8 pages long of list of names of workers who received payment in lieu of annual leave in 2006.
7. 8 pages long of list of names of workers who received payment in lieu of annual leave in 2007.
8. List of names of 27 workers who had fixed duration contract and 27 workers who had fixed duration contract.
9. Table of overtime work, table of wage payment and list of names of Ou Nary, Sien Sokchea, Chhorn Sivorn and Nut Nath from January 2008 to August 2008.

Provided by the worker party:

1. Pay slip of Ou Nary, Sien Sokchea, Chhorn Sivorn and Nut Nath.
2. Summary statement No. 074/08 SSKBK, dated 10 August 2008, to defend the collective labour dispute No. 113/08 at the Arbitration Council.

3. Letter No. 569 KB/AK/VK by the Chief of Department of Labour Dispute to the president of the local union of UKDW at New Wide factory regarding recognition of the union leadership in its new mandate, dated 26 May 2008.
4. Certificate of registration of the local union of UKDW at New Wide factory, dated 28 August 2008.
5. Certificate of the most representative status of the local union of UKDW at New Wide factory, No. 017/08 KB/VB, dated 30 January 2008.
6. Statute of the local union of UKDW at New Wide factory No. 1216 KB/VK, dated 28 August 2007.

Provided by the Ministry of Labour and Vocational Training [MoLVT]:

1. Report of collective labour dispute resolution at New Wide Company No. 943 KB/AK/VK, dated 29 August 2008.
2. Minutes of collective labour dispute conciliation at New Wide Company, dated 21 August 2008.

Provided by the Secretariat of the Arbitration Council:

1. Letter of invitation to invite the company party to attend the hearing, No. 553 KB/AK/VK/LKA, dated 3 September 2008.
2. Letter of invitation to invite the worker party to attend the hearing, No. 554 KB/AK/VK/LKA, dated 3 September 2008.

FACTS

- Having examined documents submitted to the Arbitration Council
- Having reviewed the collective labour dispute conciliation report
- Having listened to the statements by the worker party and the employer party

The Arbitration Council finds that:

- New Wide factory employs approximately 1,125 workers.
- New Wide factory was registered at the Council for Development of Cambodia and the Ministry of Commerce on 1 March 2006.
- The local union of UKDW at New Wide factory, the claimant in this case, was registered at the Ministry of Labour through certificate of union registration No. 1216 KB/VK, dated 28 August 2007. This union obtained the most representative status in the union through certificate No. 017/08 KB/VB, dated 30 January 2008.
- This union has 600 members of the total 1,125 workers.

Issue 1: The workers demand that the company convert fixed duration contracts to undetermined duration contracts

- New Wide Company commenced its garment operation in 2006. The company entered into fixed duration contracts of six months with its workers. At the end of every six month contract, the company paid termination payments and the workers received the 5 percent severance pay and payment in lieu of annual leave. Then the two parties would enter into a new fixed duration contract for six months either with the same employment conditions or promotion to a new position based on good work results.
- The union demanded that the company stop using fixed duration contracts with its members claiming that they want undetermined duration contracts because undetermined duration contracts provide more benefits to the workers especially with regard to termination at the expiration of the contract and other benefits in the future when the law on social security will be implemented.
- In the hearing, the union party did not provide the specific number or names of the workers claiming for conversion of fixed duration contracts to undetermined duration contracts; the union only claims that all of its member wished to convert their employment contract to undetermined duration contract. The union party claimed that some workers in the factory started their work since before 2007 and had renewed their 6 months fixed duration contract for four times. Thus, these workers should have had changed the type of their contract to undetermined duration contracts. The union stated that they do not have names and documents in their possession and requested that the employer party provide this (the name list and employment contract) to the Arbitration Council.
- The company party did not agree to the demand claiming that the company wished to continue the 6 months fixed duration contracts in order to ensure flexibility of the production line and allow for changing of employment conditions for the workers at the end of each contract, each time it is renewed.
- The company agreed and provided documents (list of names and contracts) of 27 workers who had been working for the company before 1 January 2007 and were continuing their employment at the company at the moment. The list of names of the 27 workers is attached as an index.
- The company provided this list of names of workers - three copies for the arbitrators, one copy for the Secretariat of the Arbitration Council and one copy for the worker party - by the deadline set by the Arbitration Council, 12 September 2008. The union party did not provide any response document or comments on the document submitted by the employer party. For that reason, the Arbitration Council is unable to identify which workers among the 27 workers are members of the claimant union who demand for conversion of fixed duration contract to undetermined duration contract.

Issue 2: Four heads of groups demand that the company pay their position bonus the company failed to pay them in the past

- The union claimed that the four heads of groups are its members and they filed a complaint to the union to demand for back payment of the bonus.
- The four heads of groups who demand for position bonus are: (1) Chhorn Sivorn, ID 0059 B1; (2) Sieng Sokchea, ID 2848 E1; (3) Ou Nary, ID 0001 A1; (4) Nut Nath, ID 2410 M1.
- The four heads of groups were not present at the hearing to make the demand but the union representatives did this on their behalf. In the hearing the union party claimed that the company did not provide other bonus or output bonus to the four above mentioned heads of groups. The union representatives claimed that this was a position bonus provided to heads of groups each month. The President of the FUKDW mentioned the demand in his summary statement, dated 10 August 2008, on behalf of Chhorn Sivorn, ID 0059 B1, a total amount of US\$ 85 for April, May and July 2008; Sieng Sokchea, ID 2848, a total amount of US\$ 115 for February, March, April, May and July 2008; Ou Nary, ID 0001 A1, a total amount of US\$ 160 for April, May, June and July 2008; and Nut Nath, ID 2410 M1, a total amount of US\$ 60 for April, May and June 2008 (See table of index A).
- The union demanded, on behalf of the four workers, an amount which is different from the amount of the 'other bonus' of US\$ 30. The union which represented the four workers did not clarify why the amount of money demanded was different from the total amount of bonuses.
- The company has a policy to provide to head of groups the following bonuses: (1) bonus for never coming to work late (the US\$ 5 attendance bonus), (2) other bonus (bonus for never being absent in a month which currently it is equal to US\$ 30) and [(3)] output bonus (a type of bonus provided to head of group according to amount of work the group achieved as determined by the company in which currently some head of groups could earn up to US\$ 60 per month). For normal workers, so far the company provide types A, B, C of bonus which are subject to evaluation by the heads of groups regarding the work results of workers and the bonuses will be provided to workers based on types A, B and C. However, after having observed that such provision always caused problems due to bias of heads of groups in evaluating and giving bonuses, the company stopped this practice and changed it to an incentive bonus for workers by providing (1) an additional US\$ 2 to the main wage for workers who can use sewing machines with 1 needle, (2) an additional US\$ 3 to the main wage for workers who can use sewing machines with 2 needles, (3) an additional

US\$ 6 to the main wage for workers who can use sewing machines with 3 needles. In the hearing the representatives of workers acknowledge the existence of the policy.

- In the hearing the representative of the employer claimed that according to the policy for bonus provision, “other bonus” is equal to US\$ 30; this bonus will not be provided to any head of group who had an absence without permission and it will be deducted in proportion for the absence with permission. The “output bonus” will be provided to heads of group in proportion to the amount of work the group achieved and it was varied from US\$ 0 to US\$ 60. Thus, the reason why the four heads of groups did not receive the above bonus was because they did not follow the company’s conditions for provision of bonus. The company claimed that every new and/or amended policy needed to have a meeting with workers and heads of groups in order to publicize it. In the hearing, one of the worker representatives stated that s/he was aware of this policy. However, the four heads of groups were absent thus unable to clarify this.
- The employer party provided punch-in hour, payroll list and the list of wage payment of the four workers for the period from January to August 2008. The Arbitration Council found the figures and information related to absence of the four head of groups in the months the union made the demand as shown in the attached index B.

REASONS FOR DECISION

Issue 1: The workers demand that the company convert fixed duration contracts to undetermined duration contracts

Article 65 of the Labour Law states, “*A labour contract establishes working relations between the worker and the employer. It is subject to ordinary law and can be made in a form that is agreed upon by the contracting parties.*”

Based on the contents of the above Article, the Arbitration Council considers that employment contract is an agreement between the worker party and the employer party and it needs to be in accordance with provisions of general contract law.

Article 22 of Decree 38 regarding Contract and other Liabilities states, “*A contract is the law of the parties. Amendments or termination to the contract can only be made with the consent of both contracting party. A contract shall be executed with honesty and according to the will of the parties.*”

Based on this Article, the Arbitration Council considers that one party of a contract cannot force the other party to accept the format or type and contents of a contract they do not agree to. Such acts entitle the other party to nullify the contract or the contract will be nullified by law. Thus, when making a contract a party has right to make suggestions regarding format, type or contents of the contract while the other party also has right to accept or not accept it. Thus, it cannot have a contract unless all parties in the contract

agreed to that. An employment contract can happen only with agreement from the worker party and the employer party, (See *Arbitral Awards 79/07-Teratex, issue 3 and 94/07-Fortune Garment, issue 3*).

In this case, the worker party requested that the company convert fixed duration contracts to undetermined duration contracts for the reason that the fixed duration contract is of a short period of time of six months so that it is very easy for the workers to lose their job and benefits related to termination payment and social security in the future. The workers' claim is related to their concern about the future but do not have any specific evidence or facts regarding any specific worker for the Arbitration Council to consider.

Thus, the Arbitration Council considers that the workers' demand do not have proper legal ground.

In previous cases, the Arbitration Council orders the employer to convert fixed duration contracts to undetermined duration contracts because the implementation of the fixed duration contract by the companies exceed two years which is against Article 67 of the Labour Law. (See *Arbitral Awards 10/03-Jaqsintex, issue 1; 36/06-Mondotex, issue 2*).

In this case, in the hearing the union party did not prove that employment contract of its members has been renewed for more than two years but it requested that the employer party provide documents related to workers who began their employment before 2007 to prove that the workers had been working under 6 months fixed duration contract up to now which has a total length of period of more than two years.

The employer party provided documents related to 27 workers whom the employer employed in the factory before 1 January 2007 who are still working in the factory now.

The Arbitration Council found that the 27 workers entered into 6 months fixed duration contract with the company for four times including the last contract which is still in effect. At each expiration of the 6 months contract, the workers received the 5 percent severance payment for the period of 6 months of employment and payment in lieu of unused annual leave during the 6 months. Then the 27 workers enter into another 6 months contract with the employer for a period of another 6 months and by then end of the second 6 months contract the employer pays for the termination of contract again. The 3rd and 4th contracts follow the same procedure.

However, the Arbitration Council cannot determine which worker among the 27 workers are members of the local union of UKDW at New Wide factory and are the claimants regarding the type of employment contract.

In this case, the union did not provide clear document or evidence in relation to specific workers who are its members who make the demand to convert the types of fixed duration contracts.

Thus, the Arbitration Council rejects the demand.

Issue 2: Four heads of groups demand that the company pay their position bonus the company failed to pay them in the past

The Arbitration Council found that there is no provision in the Labour Law regarding an incentive bonus. However, in order to strengthen and increase effectiveness of work in the company, New Wide Company set up and regularly amends its policy to provide bonuses to heads of groups as mentioned in the above findings of fact.

Thus, does the company have the right to manage and determine the policy to provide the bonus when the law does not state anything about provision of these types of bonuses?

Article 2 of the Labour Law states, “...Every enterprise may consist of several establishments, each employing a group of people working together in a defined place such as in factory, workshop, work site, etc., under the supervision and direction of the employer.”

In previous cases, the Arbitration Council considers that Article 2 of the Labour Law means that the employer party has the right to supervise and direct the company (See *Arbitral Awards 17/03 and 18/03-Ho Hing, issue 5; 28/04-Raffle D’Angkor Hotel, issue 2; 20/06-New Star, issue 5; 17/07-Charm Textile, issue 3 and 116/07-Grace Sun, issue 2*).

In previous cases, the Arbitration Council considers that the employer’s right to supervise and direct includes the right to determine about incentive bonus. (See *Arbitral Award 81/08-Global Apparel, issue 4*).

In this case, the Arbitration Council considers that the company has the right to determine and provide incentive bonus to workers who have good work results.

Based on the contents of Article 2 above, in previous Arbitral Awards the Arbitration Council considers that “*employer has the authority to supervise and manage human resources in the company as long as it is according to the law and reasonable.*” (See *Arbitral Awards 24/05-GHG; 20/06-New Star, issue 1; 108/06-Trinunggal Komara, issue 1 and 116/07-Grace Sun, issue 2*).

In this case, the Arbitration Council also considers that the policy to provide bonus to heads of group that includes requirements that the heads of groups need to fulfill in order to receive the bonus without any affect to main wages and bonuses provided by the Law as described in the findings of fact about is reasonable.

In this case, the union demands that the company back pay the position bonus to the head of groups as follows:

A. Chhorn Sivorn: Total amount of US\$ 85 which includes:

- April 2008: US\$ 15 of other bonus and US\$ 20 of output bonus.
- May 2008: US\$ 18 of other bonus.
- July 2008: US\$ 15 of other bonus and US\$ 20 of output bonus.

After comparing this with the attendance list and payroll provided by the company, the Arbitration Council found that:

- **April 2008:** Mr. **Chhorn Sivorn** had some absences and lost his attendance bonus¹ and received US\$ 0 of output. In the hearing the union representatives did not provide evidence to prove that in April 2008 Mr. Chhorn Sivorn's group could work to achieve an output as determined by the company in order for him to receive the output bonus. Thus, this demand does not have valid ground because it does not fulfill the requirements to receive bonus.
- **May 2008:** Mr. **Chhorn Sivorn** was not absent and received US\$ 5 of attendance bonus² and US\$ 20 of output bonus. Thus, the Arbitration Council considers that the union party has sufficient ground to demand for other bonus based on the fact that the worker was present at work in May. Based on the findings of fact, other bonus is equal to US\$ 30 but the union demand for only US\$ 18; thus the Arbitration Council decides that the company should back pay an amount of US\$ 18 to Mr. Chhorn Sivorn.
- **July 2008:** Mr. **Chhorn Sivorn** had some absences and received only US\$ 2.5 of attendance bonus³ and US\$ 0 of output bonus. In the hearing the union did not provide evidence to prove that Mr. Chhorn Sivorn's group could work to achieve an output as determined by the company in order for him to receive the output bonus in July. Thus, this demand does not have valid legal ground because it does not fulfill the requirements to receive bonus.

Therefore, the Arbitration Council decides to order the company to pay an amount of US\$ 18 as other bonus for May 2008 to the worker named **Chhorn Sivorn**.

B. Sieng Sokchea: Total amount of US\$ 115 which includes:

- February 2008: US\$ 25 of other bonus
- March 2008: US\$ 25 of other bonus
- April 2008: US\$ 25 of other bonus
- May 2008: US\$ 20 of output bonus
- July 2008: US\$ 20 of output bonus

¹ The fact that he lost his attendance bonus implies that the worker had absence and did not come to work regularly in that month.

² The fact that he received US\$ 5 as attendance bonus implied that the worker was present at work and came to work regularly in that month thus he should entitle to other bonus according to the company's policy.

³ The fact that he received only US\$ 2.5 of attendance bonus implies that the workers was absent and did not come to work regularly in that month. Thus he did not fulfill the company's requirement in order to receive other bonus.

After comparing this with the attendance list and payroll provided by the company, the Arbitration Council found that:

- **February 2008:** Mr. Sieng Sokchea was not absent and received US\$ 5 of attendance bonus and US\$ 20 of output bonus. Thus, the Arbitration Council considers that *the union party has sufficient ground to demand for other bonus based on the fact that the worker was present at work in February. Based on the findings of fact, other bonus is equals to US\$ 30 but the union demand for only US\$ 18;* thus the Arbitration Council decides that the company should pay an amount of US\$ 18 to Mr. **Sieng Sokchea**.
- **March 2008:** Mr. Sieng Sokchea had some absences and received only US\$ 2.5 of attendance bonus and US\$ 20 of output bonus. Thus, this demand does not have valid legal ground because it does not fulfill the requirements to receive bonus.
- **April 2008:** Mr. Sieng Sokchea had some absences and received only US\$ 2.5 of attendance bonus and US\$ 20 of output bonus like in March. Thus, this demand does not have valid legal ground because it does not fulfill the requirements to receive bonus.
- **May 2008:** Mr. **Sieng Sokchea** already received US\$ 20 of output bonus. Thus the union's demand for US\$ 20 of output bonus does not have sufficient ground because it does not fulfill the requirements to receive bonus.
- **July 2008:** In the hearing the union did not provide evidence to prove that in July Mr. **Sieng Sokchea's** group could work to achieve an output as determined by the company in order for him to receive US\$ 20 of output bonus. Thus, this demand does not have valid ground because it does not fulfill the requirements to receive bonus.

Therefore, the Arbitration Council decides to order the company to pay an amount of US\$ 25 as other bonus for February 2008 to Mr. **Sieng Sokchea**.

C. Ou Nary: Total amount of US\$ 160 which includes:

- February 2008: US\$ 25 of other bonus
- April 2008: US\$ 25 of other bonus
- May 2008: US\$ 20 of other bonus
- June 2008: US\$ 25 of other bonus and US\$ 30 of output bonus
- July 2008: US\$ 20 of output bonus

After comparing this with the attendance list and payroll provided by the company, the Arbitration Council found that:

- **February 2008:** Mr. **Ou Nary** had some absences and received US\$ 0 of attendance bonus⁴ and US\$ 20 of output bonus. Thus, this demand does not have valid legal ground because it does not fulfill the requirements to receive bonus.
- **April 2008:** Mr. **Ou Nary** had some absences and received US\$ 0 of attendance bonus and US\$ 30 of output bonus. Thus, this demand for US\$ 25 of other bonus does not have valid legal ground like the case in February because it does not fulfill the requirements to receive bonus.
- **May 2008:** Mr. **Ou Nary** was not absent and received US\$ 5 of attendance bonus and US\$ 30 of output bonus. Thus, the Arbitration Council considers that *the union party has sufficient ground to demand for other bonus based on the fact that the worker was present at work in May. Based on the findings of fact, other bonus is equals to US\$ 30 but the union demand for only US\$ 25;* thus the Arbitration Council decides that the company should pay an amount of US\$ 25 to Mr. **Ou Nary**.
- **June 2008:** According to the document provided by the employer party which is considered reliable with endorsement signature by Ou Nary, the worker **Ou Nary** received US\$ 60 of other bonus for June and US\$ 5 of attendance bonus while the output bonus was equals to US\$ 0. Regarding the demand for US\$ 30 output bonus, the union does not have evidence to prove that Mr. Ou Nary's group could work to achieve an output as determined by the company in order for him to receive the output bonus in June. Thus, this demand for other bonus and output bonus does not have valid legal ground because it does not fulfill the requirements to receive bonus.
- **July 2008:** In the hearing the union does not have evidence to prove that Mr. Ou Nary's group could work to achieve an output as determined by the company in order for him to receive US\$ 30 of output bonus. Thus, there is no valid ground to make this demand because it does not fulfill the requirements to receive bonus.

Therefore, the Arbitration Council decides to order the company to pay an amount of US\$ 25 as other bonus for May 2008 to Mr. **Ou Nary**.

D. Nut Nath: Total amount of US\$ 60 which includes:

- April 2008: US\$ 20 of other bonus
- May 2008: US\$ 20 of other bonus

⁴ The fact that he received US\$ 0 as attendance bonus implies that the worker had absence and did not come to work regularly in that month. Thus, he did not fulfill the company's requirement to

- June 2008: US\$ 20 of other bonus

After comparing this with the attendance list and payroll provided by the company, the Arbitration Council found that:

- **April 2008:** Mr. **Nut Nath** was not absent and received US\$ 5 of attendance bonus and US\$ 20 of output bonus. Thus, the Arbitration Council considers that *the union party has sufficient ground to demand for other bonus based on the fact that the worker was present at work in April. Based on the findings of fact, other bonus is equals to US\$ 30 but the union demand for only US\$ 20;* thus the Arbitration Council decides that the company should pay an amount of US\$ 20 to Mr. **Nut Nath**.
- **May 2008:** the same [to April], in May Mr. **Nut Nath** was not absent and received US\$ 5 of attendance bonus and US\$ 20 of output bonus. Thus, the Arbitration Council considers that *the union party has sufficient ground to demand for other bonus based on the fact that the worker was present at work in April. Based on the findings of fact, other bonus is equals to US\$ 30 but the union demand for only US\$ 20;* thus the Arbitration Council decides that the company should pay an amount of US\$ 20 to Mr. **Nut Nath**.
- **June 2008:** in June Mr. **Nut Nath** was not absent and received US\$ 5 of attendance bonus and US\$ 52 of output bonus. Thus, the Arbitration Council considers that *the union party has sufficient ground to demand for other bonus based on the fact that the worker was present at work in April. Based on the findings of fact, other bonus is equals to US\$ 30 but the union demand for only US\$ 20;* thus the Arbitration Council decides that the company should pay an amount of US\$ 20 to Mr. **Nut Nath**.

Therefore, the Arbitration Council decides to order the company to pay an amount of **US\$ 60** as other bonus for **April, May and June 2008** to Mr. **Nut Nath**.

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

DECISION AND ORDER

Issue 1: Reject the workers' demand for the company to convert fixed duration contracts to undetermined duration contracts.

Issue 2:

receive other bonus.

1. The company should pay an amount of US\$ 18 as other bonus for May 2008 to the worker named Chhon Sivorn immediately after this Award enters into effect.
2. The company should pay an amount of US\$ 25 as other bonus for February 2008 to the worker named Sieng Sokchea immediately after this Award enters into effect.
3. The company should pay an amount of US\$ 25 as other bonus for May 2008 to the worker named Ou Nary immediately after this Award enters into effect.
4. The company should pay an amount of US\$ 60 as other bonus for April, May and June 2008 to the worker named Nut Nath immediately after this Award enters into effect.

Type of Award: Non-binding award

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 Minister of Labour 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: **Mar Samborana**

Signature:

Arbitrator chosen by the worker party:

Name: **Vong Vanna**

Signature:

Chair Arbitrator (chosen by the two Arbitrators):

Name: **Ang Eng Thong**

Signature: