



KINGDOM OF CAMBODIA
NATION RELIGION KING

ក្រុមប្រឹក្សាអន្តរាគ្មាន

THE ARBITRATION COUNCIL

Case number and name: 54/08 – Zhong Yov

Date of Award: 16 May 2008

ARBITRAL AWARD

(Issued under Article 313 of the Labour Law)

ARBITRATION PANEL

Arbitrator chosen by the employer party: **Lee Tayseng**

Arbitrator chosen by the worker party: **Liv Sovanna**

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

DISPUTING PARTIES

Employer party:

Name: **Zhong Yov Co., Ltd**

Address: Prey Rokar village, Chork Cheu Neang commune, Angsnoul district, Kandal province

Telephone: 012 608 446

Fax: N/A

Representatives:

- | | |
|---------------------|-----------------------|
| 1. Mrs. Zhov Li Hua | Company Manager |
| 2. Mrs. Hong Huo | General Administrator |
| 3. Mr. Bun Heng | Administrator |

Worker party:

Name: **Khmer Youth Trade Union Federation (KYFTU) and Khmer Youth Trade Union (KYTU) at Zhong Yov Company**

Address: House No. 34, St 265, 13 village, Teuk Laork III commune, Tul Kork district, Cambodia

Telephone: 092 902 569

Fax: N/A

Representatives:

- | | |
|---------------------|-------------------|
| 1. Mr. Sar Cheng | Official of KYFTU |
| 2. Mr. Khem Sokneun | Official of KYFTU |
| 3. Mr. Kheng Phyrun | Official of KYFTU |

- | | |
|----------------------|---------------------------------------|
| 4. Mr. Chen Samarth | President of KYTU at the company |
| 5. Mr. Ear Chorn | Vice-President of KYTU at the company |
| 6. Mr. Sok Boran | Secretariat of KYTU at the company |
| 7. Mr. Chea Phally | Worker at the company |
| 8. Mr. Sout Sok | Worker at the company |
| 9. Mr. Ark Arth | Worker at the company |
| 10. Mr. Un Samaun | Worker at the company |
| 11. Mr. Nuon Phearin | Worker at the company |

ISSUES IN DISPUTE

(In the Non-Conciliation Report)

- 1- The Company agrees that when there is no work for the workers to do, it will provide them with 50 percent of wage, seniority bonus, and attendance bonus but does not provide duty allowance. The Workers do not agree but demand that the Company pays them 100% of wages and perquisites.
- 2- The Company agrees to follow the Notification No. 017 dated 18 July 2000. However, the workers demand that only in those cases in which they ask for permission to take leave three days should the attendance bonus be withheld.
- 3- The Company agrees to follow the Labour Law, but the workers demand that the Company maintain their wages and bonus from the day they began strike on 14 March 2008 to this date.
- 4- The Company and the workers agree to combine issue 6 with the non-conciliation issue number 2.
- 5- The Company agrees with the union representative regarding the administrative issue that if they come to work they will come together and if they take a day off, [they will take it] off together. The worker party does not agree.

JURISDICTION OF THE ARBITRATION COUNCIL

The Arbitration Council derives its power to make this Award from Chapter XII, Section 2B of the Labour 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. However, both parties did not conciliate and the non-conciliation report No.217/08 dated 9 April 2008 was submitted to the Secretariat of the Arbitration Council on 21 April 2008.

HEARING AND SUMMARY OF PROCEDURE

Place of hearing: The Arbitration Council, Phnom Penh Centre, Building A, Sothearos Blvd., Sangkat Tonle Bassac, Khan Chamkarmon, Phnom Penh.

Date of hearing: 28 April 2008 (2:00pm-17:00pm)

Procedural issues:

On 3 April 2008, the Department of Labour Disputes in Kandal province tried to conciliate the nine issues; the result was four issues were conciliated and 5 issues remained. The five non-conciliated issues were submitted to the Arbitration Council on 21 April 2008.

Having received the case, the Secretariat of the Arbitration Council summoned both the employer party and the employee party at the Zhong Yov Company to a hearing to conciliate the five non-conciliated issues on 28 April 2008 at 2:00pm. Both parties appeared at the hearing according to the invitation from the Arbitration Council.

On the hearing day, the Arbitration Council tried to conciliate the five non-conciliated issues in the non-conciliation report of the Department of Labour Disputes, however none of the disputing issues was conciliated.

Therefore, in this case the Arbitration Council considers the five issues based on the evidence and statements of the worker party 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. Objection Letter of the Zhong Yov Company to the list which the company deducts attendance bonus dated 5 May 2008(Attached with monthly attendance list);
2. Registration Certificate of the Commerce Exemption No. 2837 dated 28 November 2007;
3. Statute of the Zhong Yov Company;
4. Company Internal Work Rules registered No. 003 dated 6 February 2006;
5. Request for discussion and facilitation by KYFTU on the labour dispute of workers at the Zhong Yov Company dated 13 December 2007;
6. Minutes of the Labour Dispute Resolution at the Zhong Yov Company dated 12 May 2007;
7. Minutes of the Labour Dispute Resolution at the Zhong Yov Company dated 8 July 2007;

8. Minutes of the Labour Dispute Resolution at the Zhong Yov Company dated 5 December 2007;
9. Minutes of the Labour Dispute Resolution at the Zhong Yov Company dated 28 January 2007.

Provided by the worker party:

1. Name list of workers which the Zhong Yov Company deduct wage less than 4 hours on 1 March 2008;
2. Minutes of the meeting on the agreement of payment in lieu of annual leave and attendance bonus dated 9 January 2008;
3. Registration license of KYFTU No. 1162 dated 25 June 2007;
4. Statute of KYFTU at the Zhong Yov Company.

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

1. Report dated 9 April 2008 on the collective labour dispute settlement;
2. Minutes of the collective labour dispute conciliation dated 9 April 2008.

Provided by the Secretariat of the Arbitration Council:

1. Invitation No. 262 dated 22 April 2008 to the worker party to attend the hearing;
2. Invitation No. 261 dated 22 April 2008 to the Company Director to attend the hearing.

FACTS

- Having examined other documents submitted to the Arbitration Council
- Having examined the report on the collective labour dispute conciliation
- Having listened to the testimonies from both the employer party and the worker party
- Having reviewed other supplementary documents

The Arbitration Council finds that:

- Zhong Yov Company employs around 650 workers.
- KYFTU is the claimant in this case and has registered, but does not have most representative status.

Issue 1: Workers demanded that the company provide 100% wages and perquisites when there is no work

- In the past when there was no work, the Zhong Yov Company did not seek permission from the Labour Inspector; however it provided 50% wages and attendance bonus.
- The worker party testified that the company had no work in March but could not remember the date and in April from 7 - 21 April 2008. When there was no work the

company rotated the work suspension between different groups of workers and the company did not seek permission from the Labour Inspector. However, it provided 50% wages and attendance bonus, while the duty bonus (during working period) was not provided. The company did not object [to this testimony].

- The worker party stated that the reason that it lodged this complaint was because the company did not suspend work according to the Article 71 of the Labour Law and provided 50% wages and perquisites to workers. The employer party mentioned that the reason that the company did not make a request to the Ministry of Labour was because it considered the workers' interests: if the company made a request to the Ministry, the company would provide only US\$ 10 for accommodation to workers.
- The workers did not ask the company to pay back wages during past work suspensions.
- There was no agreement regarding 100% wages during work suspension.

Issue 2: Workers demanded that when workers take leave for important duty (besides annual leave or special leave) less than three days, the employer retain attendance bonus; if the leave was more than three days, no attendance bonus

- The worker party mentioned that in the past when workers took leave for personal commitments (besides annual leave or special leave) such as relatives' weddings, parents illness, etc., the employer always deducted the full attendance bonus although workers took one day leave. The employer party did not object.
- The employer party argued that it would follow Notification 017 dated 18 July 2000 meaning that attendance bonus is provided to anyone who works regularly. If absent with or without permission the company will deduct everything.

Issue 3: Workers demanded that the company retain wage and attendance bonus from the striking date 14 March to 5 April 2008

- Approximately 500 workers at the Zhong Yov Company went on strike on 14 March to 5 April 2008.
- The workers demanded that the employer provide wage and attendance bonus during the striking period from 14 March 2008 to 5 April 2008 because they tried to discuss the labour dispute many times with the employer, but the employer did not agree to the workers' demand. The worker party did not raise other reasons. The workers stated that because of their anger they went on strike [immediately] without following the legal procedures.

- The employer party mentioned that there was no notice for the strike and there were 500 workers involved. The worker party did not object [to this testimony].
- The employer party stated that it could not provide wage and attendance bonus according to workers demand, but the employer followed the law because the strike was illegal.

Issue 4: Workers demanded that the company reimburse attendance bonus to workers who took half-day leave

- The workers at the Zhong Yov Company requested for the intervention of the President of KYFTU to resolve some working conditions according to letter dated 19 November 2007.
- Based on the letter [requesting intervention], KYFTU issued letter No. 1158 dated 3 December 2007 requesting a meeting with Zhong Yov Company Manager. After the discussion the employer and worker party prepared a minute dated 9 January 2008 which conciliated two issues: issue 3 and issue 4. Issue 4 of the letter dated 19 January 2007 which requested the intervention the President of KYFTU to resolve working conditions at the Zhong Yov Company, was the workers' demand that the company should not deduct their attendance bonus during a three-day leave. Based on the minutes of the agreement dated 9 January 2008, clause 2, the union and employer agreed that *"The company agrees that workers will lose their attendance bonus only if they are absent for a half-day."*
- In the hearing worker party mentioned that according to this agreed point workers are entitled to a half-day leave in the morning (less than 4 hours) per day regardless the number of leave taken each month, and the company should retain the attendance bonus.
- The employer party stated that the company allowed workers to take leave multiple times per month but it should only up to 4 hours [in total]. If they take leave less than 4 hours per month the company would retains their full attendance bonus, but if more than 4 hours per month the company would withhold the full US\$ 5 attendance bonus. Otherwise, the company would follow the Notification 017 dated 18 July 2000.
- According to the evidence that the Arbitration Council received on 30 April 2008 submitted by the worker party, 7 workers took leave less than 4 hours [but their bonuses] were deducted on 1 March 2008: 1. Bun Chan Sokhorm ID 380, leave 3 hours and 30 minutes, 2. Keo Theary ID 1604, leave 2 hours and 30 minutes, 3. Arn Samarth ID 325, leave 3 hours and 30 minutes, 4. Duch Sopheap ID 093, leave 3 hours and 30 minutes, 5. Un Samoun ID 326, leave 3 hours and 30 minutes, 6.

[unnamed worker] ID 1272, leave 3 hours and 30 minutes, 7. [unnamed worker] ID 108, leave 3 hours and 30 minutes.

- Based on the evidence that the Arbitration Council received on 5 May 2008 which was submitted by the employer party and employer statement though phone confirmed that the company did deduct the attendance bonus of the seven workers for February 2008.

Issue 5: Workers demanded that the company take measures to transfer administrator Bun Heng

- The workers party alleged that administrator Bun Heng hit Mr. Cheun Samarth, President of KYTU at the Zhong Yov Company, in his chest. In the hearing worker party did not mention why Mr. Bun Heng and Chen Samarth had a conflict but they just stated that the fighting issue was under the competence of the Kandal provincial authority.
- Mr. Bun Heng claimed that he did not have a fight. The employer said if it wanted to impose disciplinary action, Mr Bung Heng and Chen Samarth would be dismissed.
- Mr. Chen Samarth did not allege that Mr. Bun Heng was a danger to workers' safety or security.
- The worker party confirmed that the fighting issue was already brought to the competent authority and the reason this issue was to sent to the Arbitration Council was because workers wanted to get advice from the Arbitration Council as to whether or not the Arbitration Council has jurisdiction to resolve the fighting issue.
- The worker party submitted to the Arbitration Council their complaint letter dated 26 February 2008 which had been sent to the Kandal Court regarding the accusation against Mr. Bun Heng.

REASONS FOR DECISION

Issue 1: Workers demanded that the company provide 100% wages and perquisites when there is no work

Article 71, paragraph 1, point 11 of the Labour Law provides that "The labour contract shall be suspended under the following reasons:

When the enterprise faces a serious economic or material difficulty or any particularly unusual difficulty, which leads to a suspension of the enterprise operation. This suspension shall not exceed two months and be under the control of the labour inspector."

Based on the content of [] Article 71 of the Labour Law, the Arbitration Council considers that the Labour Law permits the employer to have work suspensions which shall not exceed two months when the enterprise faces a serious economic or material difficulty or any particularly unusual difficulty. However, this work suspension shall be under the control of the Labour Inspector meaning that the Labour Inspector is the person who agrees or disagrees with the requests by the employer after having inspected the company. (see Arbitral Awards 22/05-Occean, Issue 2; 107/06-New Corp, Issue 2).

Article 72, paragraph 1, of the Labour Law provides that *“The suspension of a labour contract affects only the main obligations of the contract, that are those under which the worker has to work for the employer, and the employer has to pay the worker, unless there are provisions to the contrary that require the employer to pay the worker.”*

Based on the content of Article 72, paragraph 1, of the Labour Law, the Arbitration Council considers that when the work suspension is in accordance with the Article 71, paragraph 1, point 11 of the Labour Law, the workers have no obligation to work for the employer and the employer has no obligation to pay the workers.

In this case, the Arbitration Council also agrees with the decision in the previous arbitral awards that work suspensions should be under the control of the Labour Inspector. In this case, in past work suspensions at the Zhong Yov Company, the employer did not seek permission from the Labour Inspector and did not show the reason of serious economic or material difficulty or any particularly unusual difficulty. Therefore, such work suspensions were not lawful, meaning that there was no work suspension. The employer has an obligation to provide work and pay the workers and the attendance bonus as contracted. The Arbitration Council considers that providing 50% wages and attendance [under such circumstances] was not in accordance with the law. However, the worker party did not ask for any such reimbursement so the Arbitration Council does not consider this issue.

In this case, the worker party demanded that the company provide 100% full wages and perquisites to workers if there is a work suspension in the future and the employer does not seek permission from the Labour Inspector. Regarding future disputes, in principle, the Arbitration Council declines to consider future disputes because the Arbitration Council cannot foresee whether or not there will be a work suspension? If yes, will the work suspension be lawful or unlawful? And how many workers will be suspended? In addition, the previous Arbitral Awards, in general, the Arbitration Council declined to consider the demand regarding rights disputes in the future. (see Arbitral Awards 36/06-Mondotex, Issue 5; 58/07-8 Star Sportswear, Issue 1).

As a result, to be consistent with the previous Arbitral Awards, the Arbitration Council rejects this demand.

However, Article 34 (D) of the Prakas 099 on the Arbitration Council dated 21 April 2004 empowers the Arbitration Council to order parties to stop illegal conduct. In this case, the Arbitration Council considers that the Zhong Yov Company did suspend workers' work in the past without following Article 71, paragraph 1, point 11 of the Labour Law. As a result, the Arbitration Council orders the employer to cease such work suspensions immediately.

Issue 2: Workers demanded that when workers took leave for important duty (besides annual leave or special leave) less than three days, the employer retain attendance bonus, if the leave was more than three days, no attendance bonus

Point 3 of the Notification 745 dated 23 October 2006 provides that *"Benefits workers used to receive from Notification No. 017 SKBY dated 18 July 2000 on points 3, 4, 5 and 6 shall be retained."*

Point 3 of the Notification 017 dated 18 July 2000 states that *"Any workers who regularly work according to number of working days per month shall have a reward at least 5 US dollars per month."*

The Arbitration Council notes that US\$ 5 attendance bonus referenced in the Notification 017 dated 18 July 2000 rewards workers who regularly work. This Notification does not state clearly how to apply it to workers who are absent with permission from the employer. In this case, the Arbitration Council agrees with the above interpretation because the Notification does not clearly state how many days per month a worker should work to be considered to be working regularly in order to receive the bonus

However, according to Article 103 of the Labour Law provides that *"Article 103 of the Labour Law states that, "Wage includes, in particular:*

- actual wage or remuneration;*
- overtime payments;*
- commissions;*
- bonuses and indemnities;..."*

As a result, according to the content of the Article 103 of the Labour Law bonus is part of wage.

Article 71(6) of the Labour Law states that, *"The labour contract shall be suspended under the following reasons:*

"The absence of the worker authorised by the employer, based on laws, collective, or individual agreements."

Article 72(1) of the Labour Law states that, *"The suspension of a labour contract affects only the main obligations of the contract, that are, those under which the worker has to work*

for the employer, and the employer has to pay the worker, unless there are provisions to the contrary that require the employer to pay the worker.”

Based on the contents of Article 71(6) and Article 72(1) of the Labour Law, the Arbitration Council considers that when a worker is absent with approval from the employer, the worker labour contract is suspended. Therefore, the worker is not required to work for the employer and the employer does not have to pay the worker because it is a normal leave and is not considered as annual leave or special leave unless there is a contrary provision that requires the employer to pay the worker. That means the employer is not required to pay workers on the day(s) workers are absent with approval from the employer, but on the day(s) that the workers are not absent (for example, the day(s) the workers come to work) the employer is obliged to pay workers on those days. Therefore, according to the interpretation of Article 103 of the Labour Law, above, a bonus is part of the wage, and the Arbitration Council considers that the employer is not required to pay workers on the day(s) workers are absent with approval from the employer. That means the employer may deduct the attendance bonus in proportion to the number of day(s) that workers are absent with approval from the employer.

In the previous cases, regarding attendance bonus, the Arbitration Council ordered the employer to deduct the attendance bonus in proportion to the number of day(s) that workers are absent with approval from the employer. (See Arbitral Awards 57/07-Serratex, Issue 3 and 106/07-M&V3, Issue 2).

In this case, the workers demanded that the company retain US\$ 5 attendance bonus for the 3 days leave with approval from the employer. Based on the above interpretation, the Arbitration Council considers that this demand is not valid because when workers take leave, they do not work for the employer. Hence, the workers are not entitled to the full attendance bonus.

In conclusion, the Arbitration Council rejects the workers' demand to retain the same US\$ 5 attendance bonus for the three-days leave with approval from the employer. However, the employer shall provide workers with an attendance bonus in proportion to the number of day(s) that the workers work.

Issue 3: Workers demand that the company retain wage and attendance bonus from the striking date 14 March to 5 April 2008

A. Demand for wage

The workers at Zhong Yov Company, approximately 500 workers, went on strike on 14 March to 5 April 2008.

Article 332, paragraph 1, of the Labour Law states that *“A strike suspends the labour contract. During a strike, the allowance for work is not provided and the salary is not paid.”*

Based on the content of the Article 332, paragraph 1, of the Labour Law during strike strikers are not entitled to their wage.

Moreover, in previous cases, the Arbitration Council considered that all workers who went on strike were not entitled to their wage regardless whether the strike follows lawful procedures. In this case, the Arbitration Council agrees with the decision of the previous panels. Therefore, to be consistent with previous awards, the Arbitration Council rejects the demand.

B. Demand for attendance bonus

According to the argument of both parties in the hearing and the letter submitted after the hearing, the strike on 14 March to 5 April 2008 started without any notification [as required by] the law.

Article 320, paragraph 4, of the Labour Law states that *“The right to strike can be exercised only when all peaceful methods for settling the dispute with the employer have already been tried out.”* In fact, in this case the strike occurred without peaceful methods for settling the dispute with the employer having been attempted because workers went on strike before the negotiation process or the conciliation by the Labour Dispute Resolution Office or through the Arbitration Council which is an institution to resolve labour disputes peacefully. Therefore, the workers’ strike on 14 March to 5 April 2008 did not follow the lawful procedures, and occurred without notification or exhausting all peaceful means of resolution.

In previous cases, the Arbitration Council decided that the workers who went on strike without following the lawful procedures did not come to work regularly, so they were not entitled to attendance bonus. (See 04/03-Ly Da, Issue 1; 15/04-Lucky Zone, Issue 4; 03/05-Flying Dragon, Issue 3 and 63/07-Phom Penh Garment).

Therefore, the Arbitration Council rejects the workers’ demand.

Issue 4: Workers demanded that the company reimburse attendance bonus to workers who took half day leave

This issue arises as a result of the interpretation of point 2 of the minutes dated 9 January 2008 in which the workers considered that the terms [‘]workers will lose their attendance bonus only if they are absent for a half-day[‘] refer to leave taken each day. The employer party on the other hand interprets that the terms [] refer to the total leave taken each month. In addition, the workers demanded that the employer reimburse their attendance bonus in February or March in 2008 to the 7 workers (as per the attached list) who took leave more than 4 hours per month. The Arbitration Council considers as follows:

A. What should be the interpretation of point 2 of the minutes dated 9 January 2008?

Point 2 of the minutes dated 9 January 2008 provides that *“The company agrees that workers will lose their attendance bonus only if they are absent for a half-day.”*

The Arbitration Council finds that the agreement on point 2 was the result of the worker negotiation between the worker and employer parties regarding the workers’ [earlier] request dated 19 November 2007 point 4 which proposed that *“When workers take 3 days leave the company should not deduct the attendance bonus.”* Therefore, the workers proposal was with respect to each month, not each day.

In accordance with the Article 312, paragraph 2, of the Labour Law, the Arbitration Council legally decides on dispute concerning the interpretation and enforcement of laws or of a collective agreement. Therefore based on the finding of facts and the above interpretation, the Arbitration Council considers that point 2 of the minutes dated 9 January 2008 is interpreted to mean that *“Regarding workers who are absent with permission for less than 4 hours per month, their attendance bonus shall be retained.”*

However, based on the interpretation in Issue 3 above, the Arbitration Council orders the employer to deduct attendance bonus in proportion to the day(s) that a worker is absent with approval from the employer.

Therefore, the Arbitration Council considers that the agreement provides less benefits to workers than is legally required because if workers are absent more than 4 hours per month, the entire attendance bonus is withheld, which is against the interpretation of Issue 3 that the employer may deduct the attendance bonus in proportion to the number of day(s) that workers are absent with approval from the employer.

Clause 1 of the Article 13 of the Labour Law states that *“The provisions of this law are of the nature of public order, excepting derogations provided expressly. Consequently, all rules resulted from a unilateral decision, a contract or a convention that do not comply with the provisions of this law or any legal context for its enforcement, are null and void.”*

Based on the content of this Article, the Arbitration Council considers that the minutes of the agreement are null and void.

In this case, the seven workers demanded that the company reimburse their attendance bonus which was withheld in February 2008 by saying that they took leave less than 4 hours per month. In addition, based on the evidence that the Arbitration Council received from the employer and the statement by the employer through phone, the employer confirmed that it withheld the seven workers’ attendance bonus.

Therefore, to be consistent with the above interpretation of Issue 3, the Arbitration Council orders the employer to reimburse the seven workers attendance bonus in proportion to the day(s) that workers take leave with approval.

Issue 5: Workers demanded that the company take measure to transfer administrator Bun Heng

The workers party requested the company transferred administrator **Bun Heng** because he fought with Chen Samarth, President of KYTU at the Zhong Yov Company.

Based on the above facts, the workers mentioned that administrator Bun Heng hit Chen Samarth, President of KYTU at the Zhong Yov Company.

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

Article 22 of Decree 38 on Contract and Outside-Contract Responsibility stipulates that, *“A contract is a legally binding agreement between the parties. Amendments to the contract can only be made with the consent of both contracting parties... A contract binds only the parties to the contract.”*

Based on this Article, the Arbitration Council considers that only a party to a contract can terminate a contract.

In previous cases, the Arbitration Council considered that *“the employees do not have rights to demand the employer to dismiss any employees unless the employees can prove that the employee is a dangerous person who cannot be allowed in the company or factory, and that keeping the person can cause harm to the workplace.”* (See 73/04-Yen U.N, Issue 2 and 87/04-Nobel, Issue 2).

Regarding the accused, the worker party did not provide clear evidence to prove that Mr. Bun Heng caused harm to workers' safety.

In conclusion, the Arbitration Council rejects the demand for the employer take measure to transfer administrator Bun Heng.

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

DECISION AND ORDER

Issue 1:

- Decline to consider the workers' demand for the company to provide 100% wage when there is no work.
- Order the employer to cease immediately work suspensions which are not in accordance with Article 71 of the Labour Law.

Issue 2:

- Reject the workers' demand that the company retain US\$ 5 attendance bonus when workers take leave with approval for personal commitments.

- Order the employer to provide attendance bonus in proportion to the day(s) workers come to work when workers take leave with approval from the employer.

Issue 3: Reject the workers' demand that the company provide wages and attendance bonus during the strike period from 14 March to 5 April 2008.

Issue 4: Order the employer to reimburse attendance bonus to the seven workers in proportion to the day(s) that workers are absent with approval from the employer.

Issue 5: Reject the workers' demand that the company take measures to transfer administrator Bun Heng.

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 period.

SIGNATURES OF MEMBERS OF THE ARBITRATION PANEL:

Arbitrator chosen by the employer party:

Name: **Lee Tayseng**

Signature:

Arbitrator chosen by the worker party:

Name: **Liv Sovanna**

Signature:

Chair Arbitrator (chosen by the two Arbitrators):

Name: **Kong Phallack**

Signature: