

**KINGDOM OF CAMBODIA
NATION RELIGION KING**

THE ARBITRATION COUNCIL

Case: 68/04

Date of award: September 6, 2004

ARBITRAL AWARD

(Issued under Article 313 of the Labour Law)

City New Garment Factory

(Employer party)

AND

City New Khmer Youth Union and Khmer Youth Union Federation

(Employee party)

DETAILED INFORMATION OF EMPLOYER PARTY:

Representative:

- 1- Uy Nath, Administration Chief,
- 2- Mr. Ieng Vannak, Lawyer of City New Garment Factory, the company

Address: Street 68 crisscrosses Street 45 Phsa Toch, Srah Chack quarter, Don Penh district, Phnom Penh.

Tel: 012 881 988/023 428 175

DETAILED INFORMATION OF EMPLOYEE PARTY:

Representative:

- 1- Mr. Vong Borin, President of the Khmer Youth Union of the City New Company
- 2- Ms. Neth Sochan, Vice-President of the Khmer Youth Union
- 3- Ms. Sar Chan Theary, Secretary of the Union
- 4- Mr. An Sopheak, Commissioner
- 5- Ms. Sim Lida, Commissioner
- 6- Mr. Long Sophat, Khmer Youth Union Federation Official
- 7- Mr. Mai Vadhna, Khmer Youth Union Federation Official

Address: Phsa Toch Village, Tuol Sangke quarter, Russey Keo district, Phnom Penh.

Tel: 011 62 29 63

ISSUES IN DISPUTE:

(In non-conciliation report)

- 1- The employees demanded that the company give 3 cans of milk, 1kg each, and US\$20 pay for childcare per month.
- 2- The employees demanded that the company pay the base wage equally among quality control (QC) workers.
- 3- The employees demanded that the company maintain payment of wages during medically certified sick leave..
- 4- The employees demanded that the company maintain the full seniority bonus and US\$5 for the regular bonus for female workers during their maternity leave.
- 5- The employees demanded the company pay each worker riel 10,100 for medical check-ups.
- 6- The employees demanded that the company pay transport costs when the company dismisses probation workers.

JURISDICTION OF THE ARBITRATION COUNCIL :

The Arbitration Council derives its power to make this Award from Section IIB of Chapter 12 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 Nomination of Arbitrators No.103, 26 April 2004.

An attempt to conciliate the collective dispute which is the subject of this Award was made as required by Chapter XII Section 2A of the Labour Law on 11 June 2004. The attempt to conciliate 6point demands of the employees by the Ministry of Labour and Vocational Training was unsuccessful. The non-conciliation report, No. 2218, dated 13 August 2004 was submitted to the Secretariat of the Arbitration Council on 16 August 2004.

COMPOSITION OF THE ARBITRATION PANEL :

| | |
|---|--------------------------|
| Arbitrator chosen by the employer party: | Mr. Mar Sambona |
| Arbitrator chosen by the worker party: | Mr. Tuon Siphann |
| Chair arbitrator (chosen by the two arbitrators): | Dr. Sok Mathoeung |

HEARING AND EVIDENCE:

Date and place of hearing: Thursday, 19 August 2004, at 2:30 p.m. at the Secretariat of the Arbitration Council.

Witnesses and Skillful people: N/A

EVIDENCE THAT WAS CONSIDERED BY THE ARBITRATION PANEL IS AS BELOW:

Provided by the employer party:

- 1- Registration certificate of the City New Factory (Cambodia) Ltd. at the Ministry of Commerce, dated 24 October 1995
- 2- Letter of the company transferring the right to Lawyer Leng Vannak, dated 18 August 2004
- 3- Internal Work Rules registered at the Ministry of Labour and Vocational Training, dated 13 June 1997
- 4- The company's contract model
- 5- The company's job announcement model in recruiting workers for the sewing section
- 6- Letter of the Khmer Youth Union Federation, dated 6 July 2004
- 7- Response letter of the company to the President of the Khmer Youth Union Federation, dated 8 July 2004
- 8- The minutes from the collective disputed conciliation, dated 12 July 2004

Provided by the employee party:

- 1- Certificate of Union registration, No. 597, dated 29 April 2004 and registration letter, No. 327, dated 29 April 2004
- 2- Request of City New Factory workers to the President of Khmer Youth Union Federation to intervene to meet their demands

Received from MoLVT:

- 1- Non-conciliation report on the collective dispute conciliation dated 13 August 2004 of the Ministry of Labour and Vocational Training
- 2- The Minutes from the collective dispute conciliation, dated 6 August 2004

Presentation by both parties in the hearing

The two parties decided in the hearing that: THIS AWARD IS NOT IMMEDIATELY BINDING.

CASE SUMMARY:

City New Garment Factory is located on Street 68, intersecting Street 45 Phsa Toch, Srash Chack quarter, Don Penh district, hiring 1057 employees. Don Penh District's Labour Inspectors received notification of the complaint by phone on 6 August 2004, in which the employees demanded that the company remedy a 6-point problem. After having received the complaint, the Labour Inspector visited the factory to conciliate and solve the problem, but the two parties did not agree on any point.

On 19 August 2004 at 2:30 p.m., the Arbitration Council heard case 68/04 at the Secretariat of the Arbitration Council. The employees demanded that the company build a breastfeeding room and a childcare center in accordance with the law. If the company could not yet afford a childcare center, the employees demanded in the alternative that the company pay US\$27 per month in benefits and provide 18-months of childcare for female workers returning from maternity leave.

FINDING OF FACT:

- Having examined the minutes from the collective conciliation
- Having listened to the presentation of the employee party and minutes from the hearing
- Having reviewed the above documents

We find that:*1st issue:*

City New Company employs more than 900 female workers of which approximately 30 give birth each year. The company started its operations in 1995. In the factory, no space is provided for breastfeeding, but space is provided for childcare for infants of more than 18 months. The childcare space is small and no childcare provider is employed. Female worker No.1061 received childcare near the company for US \$15 per month.

2nd issue:

The company employs 95 quality control workers. Among them, are workers who work as both assistants and as quality controllers, while some others are only quality controllers. Out of the 95 workers, only 38 receive US\$50 per month, and the rest receive only US\$45 per month. Most quality control workers who are also assistants are paid US\$50, but some quality control workers who are assistants receive only US\$45 per month. There are workers who are only quality controllers and are paid US\$50. All 95 of the quality controllers are responsible for controlling the quality of the finished clothes according to the exact number assigned by the company, and are required to work carefully, quickly, and

accurately. The employee party argued that the work speed of those quality control workers who receive US\$45 is similar to those who were paid US\$50, and on average the most production they did was 360 and the least was 215. The company acknowledged this point, but offered the reason that those who are paid US\$50 per month is because they are more skillful in controlling the quality of products with fewer mistakes, while those paid US\$45 make more mistakes. So far, the company has increased the wages for quality control workers from US\$45 to US\$50 as demanded by the team leader of the quality control workers, and which was executed in writing or verbally.

3rd issue:

Regarding daily wages, the employer did not pay wages to the workers during sick leave despite an appropriate certificate from private doctors or from the company's doctors unless the workers had a medical certificate from the hospitals agreed upon on 12 July 2004 such as Calemet Hospital, Preah Sihanouk Hospital, Preah Kosamak Hospital, Municipal Maternity Hospital, and other provincial hospitals with a stamp certified by the state.

Concerning the bonus for regular attendance, when the workers were sick, the employer did not pay US\$5 for their regular attendance even though they had a certificate from a doctor.

Regarding the recognition of hospitals, the employer accepted certification from only the four public hospitals in Phnom Penh and public hospitals in the provinces. The two parties reached an agreement on 12 July 2004 that they agreed to accept the hospitals mentioned above for officially accepted medical certificates.

4th issue:

The company allowed female workers to have a 90-day maternity leave with half of the basic wage, that is, US\$22.5 a month (45 divided by 2). But, during leave, the company did not give any necessary benefits or attendance bonuses to these workers who took leave. However, the company was prepared to give half of the seniority bonus to the workers.

5th issue:

In 2000, the company requested doctors from the Labour Hospital to provide medical check-ups to the company's workers, and the company decreased workers' wages by US\$3. The company has applied this policy since the policy's inception. The policy has been applied to some of the workers hired since 1997. Currently, the company requires those workers who want to work in the City New Garment Factory to bring with them their employment workbook and medical check certificate as stated in the company vacancy

notice that was sent to the Arbitration Council. In practice, the employer allowed the workers to work before sending them to have their health checked, then deducts 10,100 riel from their wages within three days. The time required for a medical check-up is a half-day. If the workers did not show a receipt for the medical check-up within the required period, the company dismissed them immediately. The workers demanded that the company compensate costs for the medical check-ups to all the workers including those workers who started their work since 1995. The company rejected this demand based on a notice by the company that workers are required to have health certificates in advance to work in the factory. The employer representative also requested the Arbitration Council to consider the legal time limit allowed for the demand.

6th issue:

The workers demanded the transportation cost for probation workers who might be dismissed in the future. The workers working in the factory are living in Phnom Penh, some are near and others are further away. The workers failed to give explicit evidence for any probationary worker who was working far from his or her residence or the company. The company argued that if the company hired a worker far from his or her residence, the company would be responsible for transportation costs. In addition, the company posted its vacancy notice in front of the company, but did not publicize the notice for workers that lived far from the company.

REASON FOR DECISION:

1st issue:

Based on (1) 63/04 - Shine Well, decided on 13 August 2004 and (2) Article 186 of Labour stating that:

“Business owners employing a minimum of one hundred women or girls must install within their establishment, or nearby, a nursing room and child care center for babies.”

If the company is not able to install a nursery on its premises for children over eighteen months of age, female employees can place their children in any daycare center and the charges there incurred must be covered by the employer.”

In addition, Article 187 states that: *“a regulation issued by the Ministry of Labour shall determine the conditions for setting up and supervising these nurseries and child care centers.”*

In this case, City New Garment Factory hires 900 female workers.

Therefore, the Arbitration Council finds that by law the employer is obliged to organize a room for breastfeeding and a childcare center for children of more than 18 months within the factory campus or somewhere nearby. If the employer cannot afford the childcare center, he or she must pay the cost for babysitting to the female workers who had their children of more than 18 months looked after outside the factory. In the hearing, the employee party testified that there were 1061 workers who had their children looked after outside the factory, spending about US\$15 per month for a child. The Arbitration Council finds that the cost for looking after a child is US\$15 per month, the cost for general babysitting. Therefore, if the employer cannot afford any childcare arrangement, he or she has to pay the US\$15 to the female workers who have their children of more than 18 months and who must have their children looked after outside the factory. The demand for US\$27 a month for milk and for the cost for babysitting outside the factory is beyond what is provided in the Labour Law. Therefore, the Arbitration Council finds that there is no such provision that obligates the employer.

2nd issue:

In the case, the employees demanded that the employer pay all the quality control workers US\$50 a month without raising problem of discrimination beyond stating that all of the workers in the section are of the same speed (similar productivity).

According to Article 106 of the Labour Law, *“For equal working conditions professional qualifications, and productivity, the salary shall be equal for all workers subject to the present law, regardless of their nationality, sex or age.”* In this sense, in order to have equal pay, the employees have to fulfill 4 requirements as follows:

1. Equal working conditions
2. Equal professionalism
3. Equal productivity, and
4. [No] Discrimination of race, sex or age

In this case, the employees who are paid US\$45 mentioned that they had the same working conditions as other employees who receive US\$50 (in the same quality control section). Therefore, the first requirement is fulfilled.

In addition, the employee representative argued that the employees in the quality control section who were paid US\$45 a month would work at the same speed as the employees who were paid US\$50 a month. Therefore, the 3rd requirement is met. However, the employees who demanded an increase in their wage failed to show any evidence that they had fulfilled the 2nd and 4th requirements.

The employer argued that some employees were paid US\$45 a month because they were not yet skilled employees in quality-controlling. Those workers worked quickly, but they made many mistakes because when the clothing box was unpacked there were products of inappropriate quality. Thus, the buyers refused the goods, which required the company to re-do the quality control. Thus, the employees who demanded US\$50 could not meet the 2nd requirement of Article 106.

Moreover, according to (1) 28/04 - Raffel Grand Hotel d'Angkor, decided on 11 August 2004, (2) Article 2 of the Labour Law, stating that: "*Any enterprise can consist of... a group of workers... under the direction of the employer,*" the employer is entitled to manage and lead the human resources in the company with the condition that the management and leadership are in accordance with the law. As a rule, the right to management allows the employer to set up policies for the increase in wages for any worker who works well, thoroughly and productively for the company.

In addition Article 5(A), of the company's Internal Work Rules mentions that: "*the company gives bonuses and other benefits based on skill, general knowledge, specialty or on the productivity of each employee...as set by the company.*" Therefore, the setting of wages, bonuses and other benefits are subject to the decision of the employer, as long as the setting is not lower than that stipulated in the law and is without any discrimination. In this case, the employer gave a basic salary of US\$45 to quality control workers in accordance with the minimum wage set in the Labour Law, and increased the wage for quality control workers from US\$45 to US\$50 a month due to increased skills, fast quality control, thoroughness, and fewer mistakes. As for other quality control workers who performed at quite a similar speed but made many mistakes that the company could not accept, they were not given the wage increase.

Therefore, the Arbitration Council finds that the employees' demand for the quality control workers to have equal pay of US\$50 a month is legally unfounded.

The company's letter, dated 30 August 2004 to the Arbitration Council suggested that the company would allow room for reconsideration about the increase in the wage for the employees who are skillful. The Arbitration Council finds the company proposal is appropriate and consistent with the meaning of the above article. Therefore, the company should implement a policy for any employees who at present is paid only US\$45 a month, to test and evaluate their capacity and skills, so that they can be paid US\$50 a month as other skilled employees. Therefore, the Arbitration Council rejects the demand to have equal pay of US\$50 for all quality control employees and orders the company to organize the capacity

test the quality control employees who at present are paid only US\$45 in order to increase their wage to an appropriate amount.

3^d issue:

Does the employer have to pay daily wage to sick workers according to the law?

Article 4(F) of the Internal Work Rules of the company states that: *"[the company] allows sick leave with appropriate medical certificates besides incidents at work. The company allows the first month of sick leave with full wages. The company pays 70% of the wage for sick leave from 2 to 3 months, and no pay for sick leave from 4 to 6 months, and the possibility of being dismissed for sick leave for more than 6 months"*. The Arbitration Council finds that according to the Internal Work Rules, when a worker is sick and takes sick leave, in the first month, he or she gets his or her usual daily wage. If a worker takes sick leave from 2 to 3 months, he or she gets only 70 % of his or her full wage. If a worker takes sick leave from 4 to 6 months, he or she gets no pay, and if a worker takes sick leaves of more than 6 months, the company may fire him or her.

Who is the medical doctor entitled to issue medical certificates that the company recognizes according to the applicable law?

The employer party argued that in order to get the daily wage during the sick leave taken, a worker had to submit a medical certificate issued by a medical doctor from a public hospital. If not, the company will not make payments. The employee party argued that the employees must be paid during their leave as long as they have a medical certificate from any recognized medical doctor, regardless of whether he or she works in a public hospital or private hospital, because the employees could not go to the public hospital because of the distance and high cost. In addition, the employees argued that if they are ill and go to the state-run hospital, the doctors there will not issue any certificate. Further, if the worker just wants to have medical certificate without staying at the hospital, they are required to pay a fee.

According to the Ministry of Labour's minute of the collective dispute conciliation, dated 12 July 2004, the Arbitration Council finds that the two parties agreed to recognize these hospitals. The Arbitration Council finds that legal principles and the internal work rules of the company do not have any clear provisions about this issue. The Arbitration Council has mentioned earlier that Article 4 of the company's Internal Work Rules states that to obtain sick leave the employee must provide appropriate evidence. However, Article 4 does

not make it clear whether a prescription from a doctor of a public hospital or private one is required. Article 13 of the Labour Law appears to be a public policy that allows the employer to give benefits to the employees above that required by law but not less than what is required by law. The Arbitration Council finds that the recognition of only public hospitals is not consistent with Article 13. Moreover, the Arbitration Council finds that for present practices in Cambodia most civil servants, NGO staff and private staff recognize medical certificates from any medical doctor who is legally recognized. The Arbitration Council finds that based on actual practices acquiring a medical certificate from large hospitals such as public ones is difficult. Therefore, if the Arbitration Council requires the employees to abide by the above agreement, it will be unjust for workers. Thus, the City New Company must accept medical certificates from any medical doctor of any clinic or any hospital that is legally recognized.

4th issue:

The company allows female employees maternity leave of 90 days. Chapter 1, Article 182 of the Labour Law 1997 states that: *“in all enterprises covered by article 1 of the present Code, women have the right to maternity leave of ninety days”*. Therefore, the implementation is in accordance with Article 182. The two parties do not have any dispute related to this point.

The company also pays 50% wage. Paragraph 1 of Article 183 of Labour Law states that: *“during the leave discussed in the preceding article, women are entitled to half of their salary, including benefits in cash, to be paid by the employer.”* The company’s practice is consistent with the law as mentioned in Article 183. The two parties did not have any dispute in relation to the half-wage.

The employer agreed to give 50 percent of the seniority bonus to female workers taking maternity leave. According to Article 183 mentioned above the Arbitration Council finds that the seniority bonus can be complimentary because the purpose of Article 183 is to give female workers taking maternity leave benefits at least equal to half of the benefits they receive for regular work. Moreover, according to Article 5 of the Ministry of Labour’s Notification 017, dated 18 July 2000 the employer has to pay all his employees the seniority bonus. Article 5 mentions that any employee who has worked for more than one year deserves a seniority bonus of US\$2 a month; for more than 2 years deserves seniority bonus of US\$3; for more than 3 years deserves seniority bonus of US\$4; and for more than 4 years deserves seniority bonus of US\$5 a month. The Arbitration Council finds that the seniority bonus is referenced in Article 183 and the employer must pay female employees taking maternity leave an amount at least equal to half of the worker’s seniority bonus.

The employer paid female employees taking maternity leave US\$15 for milk costs. According to legal principles in Article 13 of Labour Law of 1997 concerning the public policy, the law does not prevent any company from giving benefits to employees better than those benefits set in the law. In addition, Article 183(2) states that: *“if applicable, women fully reserve their rights to payment in kind.”*

The company did not provide nor agree to pay a regular bonus of US\$5 to female workers who took maternity leave.

In relation to the regular bonus, the Arbitration Council finds that under Article 102 and 103 on wage and Article 183 of the Labour Law that other benefits are considered. But, Article 183 does mention clearly what are included in the benefits. What the Arbitration Council finds clearly stated is Article 3 of the Ministry of Labour’s Notification 017, dated 18 July 2000 stipulating that: *“Any worker coming to work regularly during the regular working days of the month shall receive the attendance bonus of at least US\$5 a month.”* Based on this Notification, the female workers taking maternity leave may not be paid their regular bonus because they do not attend work and rather take leave. However, leave is allowed by law, and the Labour Law clearly stipulates that they must receive their wage and other benefits in an amount at least equal to half of what they deserve for their usual work.

In addition, Article 103(4) of the Labour Law mentions that the wage includes *“bonuses and indemnities.”* In this sense, the Arbitration Council finds that the bonus for regular work is under the umbrella of Article 183 of the Labour Law which states that *“[h]owever, the wage benefits specified in the first paragraph of this article shall be granted only to women having a minimum of one year of uninterrupted service in the enterprise”*. Therefore, the Arbitration Council finds that taking the one-year period before female workers go on maternity leave, as the basis for the regular wage calculation is reasonable and just for both the employer and employees. Article 168 of the Labour Law on annual leave may be an appropriate basis for the calculation of maternity indemnity. This means that the calculation has to be done with respect to the 12 months prior to the maternity leave taken by the female worker, including all benefits, and divided by 12 months to determine the monthly average. And the average is divided by 2 in order to reach the 50% wage. That amount of money is the sum the employer has to give to female workers taking maternity leave each month.

5th issue:

Based on:

(1) 02/03 - Chou Sing, decided on 21 May 2003, 21/03 - Loyal Cambodia, decided on 8 December 2003, 19/04 - Kbal Koh 2, decided on 21 May 2003, 53/04 - Kong Hong,

decided on 26 July 2004, 60/04 United Arts, decided on 16 August 2004 and 63/04 - Shine Well, decided on 13 August 2004

(2) Article 247(C) of the Labour Law of 1997, and

(3) Joint Prakas No. 09/94 on medical checks for Khmers and foreigners who work in Cambodia requiring the employer to pay medical checks for the employees. Article 7 of the Joint Prakas states that: “the industry owner has to pay medical checks for his or her employees.”

Following the previous cases, the Arbitration Council finds that the Joint Prakas No. 09/94 is still valid. The Joint Prakas was established in connection with the Labour Law of 1992, not Article 247 of Labour Law 1997. However, the Prakas does not contradict the Labour Law of 1997, and it is not invalidated as mentioned in Article 395 of the Labour Law of 1997. (See 02/03 - Chou Sing, 53/04 - Kong Hong and 60/04 - United Arts).

Moreover, even if the Joint Prakas No. 09/94 is no longer valid, the Arbitration Council finds that Article 247 of the Labour Law 1997 provides enough legal basis to conclude that the employer is obliged to pay for the medical check-ups for the employees. Article 247(C) clearly states that when a new Prakas comes into existence, they will require the employer to pay for the medical check-ups for the employees (See 60/04 - United Arts).

In this sense, the employer is obliged to pay for the medical checks for his or her employees. Here, the employees' wage had been deducted to compensate for the cost of medical check-ups, and some other employees had paid the for the medical check-ups by themselves and then took the receipt to the employer.

The requirement for the employees to have medical checks and then deducting their wages is inconsistent with the law, especially Article 127 of the Labour Law, which stipulates that: “*The employer shall not make a profit on the amount of salaries owed by him to his workers and the amount he is owed by them for various provisions, of whatever kind, with the exceptions...*”

In addition, the requirement for the employees to pay by themselves in advance for a medical check-up does not relieve the employer of the legal obligation stipulated by Article 7 of the above Joint Prakas and Article 247(C) of the Labour Law 1997.

Moreover, Article 377 of the Labour Law mentions that “*those guilty of violating the provision of Article 247 and of the regulations referred to by these articles regarding*

occupational medicine are subject to a fine of one hundred twenty days to three hundred sixty days of the base daily salary and to imprisonment of one to five years, or to only one of these penalties.” This article explicitly implies that if the employer does not abide by Article 247 he or she will be fined and punished according to the applicable law.

Article 120 of the Labour Law sets the limitation for the employees' lawsuit related to the wage—3 years counting from the day [of the monetary transaction]. In this regard, the employees have a right to complain, demanding the wage the employer deducted for medical checks within three years, counting from the day of the [deduction]. If the employees do not demand within the three years as mentioned here, the employees lose their right to demand the amount of the wage deduction by the employer. In the case here, the employees demand regarding the wage deduction was based on the letter, dated 5 July 2004.

Therefore, the Arbitration Council decides that the employer is required to pay the cost of medical check-ups equal to 10100 riel for each worker whose wage was deducted on 5 July 2001 until the present, to the workers who had their health checked and made out of pocket payments, and the employer is required to pay for the employees who have not yet had their health checked so that they can receive a medical check-up.

6th issue:

Article 68 of the Labour Law stipulates that: *“The round trip travel costs incurred by a worker during the trial period when working outside of his habitual place of residence are to be paid by the employer”*

Following, the Arbitration Council finds two problems:

- 1- In case the employer requires the employees to work far from the normal place (far from the factory or the company).
- 2- In case the employees come from a distant province in order to find a job in the factory (or company) located in Phnom Penh (or in other province).

For the first case, if the employer requires the employees to work far from the usual place, the cost for transport will be under the responsibility of the employer as mentioned in point 1- above, and the employer witnessed that in the case as mentioned in point 1-, the employer will be responsible for the transport.

But in this case, the workers do not demand the transportation cost for the probationary workers who have to work far away from their place of habitat that is the responsibility of the employer and as is mentioned in point 1 above. Moreover, the employer

says that in the case of the point 1 as mentioned above, he or she will be responsible for the transportation or the round-trip cost.

Therefore, the Arbitration Council finds that the employees demanded the cost for the transport as mentioned in the second case. The Arbitration Council finds that the employees did not demand payment for transport for probationary workers who are working in the factory or the workers whom the employer had dismissed but demanded payment for any probationary workers who might be dismissed in the future.

The Arbitration Council cannot accept the demand because (1) the demand is not related to any obvious or practical circumstance and (2) Article 68 of Labour Law does not apply to the transportation of the employees whose residents are in one province and find jobs in another province.

Therefore, the Arbitration Council finds that the demand by the employees in the case is unfounded. The Arbitration Council rejects the demand.

Based on the above fact, legal principle, and evidences, the AC makes its decision as below:

DECIDES :

1. A- The employer must organize a room for breastfeeding in the factory within two weeks after the award comes into effect.
B- The employer must establish a childcare centre in the factory under the supervision of the Ministry of Labour or pay for the US\$ 15 babysitting fee per month to the female workers whose children of more than 18 months are looked after outside the factory. The employer must implement this point from 30 September 2004 onwards.
2. (1) - Reject the demand by the employees for the employer to pay US\$50 equally to all the quality control workers.
(2) - Order the company to organize skill tests for probationary workers who are paid only US\$45 a month and to increase the wage to US\$50 to the workers according to their expertise and capacity. The skill test must be organized within one week after the award comes into effect.

3. (1) - Order the company to recognize all kinds of certificates, issued by doctors from public hospitals or private ones that are legally recognized, brought in by the employees when they are sick.

(2) - Order the company to pay full daily wages to any worker who is sick for one month, 70% for any worker who is sick for 2 to 3 months, when they have appropriate certificates as mentioned in the point immediately above.

4. Order the employer party to provide the female workers taking maternity leave with:

(1) - 90-day leave.

(2) - Wage and other benefits equal to half of their basic salary. The benefits include the total amount of money (including seniority bonus and regular bonus) within 12 months before the beginning of the leave, divided by 12 months in order to calculate the average amount per month and divided by 2 in order to have a monthly payment for the workers.

5. The employer must pay medical check-ups equal to 10,100 riel to any worker whose wage had been deducted after 5 July 2001 and to any worker who had already had their medical check-up and paid out of pocket. The compensation must be completed within one week after the award comes into effect. The employer must pay for medical check-ups for all the workers who have not yet had medical check-ups.

6. Reject the demand by the employees related to the cost of transportation for dismissed probationary workers.

SIGNATURES OF MEMBERS OF THE ARBITRATION PANEL:

Arbitrator chosen by the employer party:

Name: Mar Sambona

Signed:

Arbitrator chosen by the worker party:

Name: Tuon Siphann

Signed:

Chair of arbitration panel:

Name: Sok Mathoeung

Signed:

This Award will become binding after 8 days of the date of its notification unless one of the parties lodges a written opposition with the Secretariat of the Arbitration Council within this time period.

This Award is immediately binding upon the parties if parties have agreed as such in writing before the notification of the Award, or if parties are bound to comply with a collective bargaining agreement stipulating that no opposition to the Award may be lodged.