



**KINGDOM OF CAMBODIA**  
**NATION RELIGION KING**

**ក្រុមប្រឹក្សាអាជ្ញាកណ្តាល**

**THE ARBITRATION COUNCIL**

**Case number and name: 78/12-Dignity Knitter**

**Date of award: 18 May 2012**

### **ARBITRAL AWARD**

(Issued under Article 313 of the Labour Law)

#### **ARBITRAL PANEL**

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

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

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

#### **DISPUTANT PARTIES**

##### **Employer party:**

Name: **Dignity Knitter Limited (the employer)**

Address: Prek Ta Pring Village, Sethbo Commune, S'ang District, Kandal Province

Telephone: 067 999 895

Fax: N/A

Representatives at the first hearing:

- |                    |   |
|--------------------|---|
| 1. Mr Tang Sunheng | Head of Administration  |
| 2. Mr Jiang Wei    | Head of Factory   |
| 3. Mr Zhong Hai    | Head of Production  |
| 4. Mr Long Heang   | Officer of the Garment Manufacturers Association in Cambodia (GMAC) |
| 5. Mr Sam Van      | Assistant in the fixing section                                     |

Representatives at the second hearing:

- |                  |                          |
|------------------|--------------------------|
| 1. Mr Jiang Wei  | Head of Factory          |
| 2. Mr Zhong Hai  | Head of Production       |
| 3. Mr Sok Piseth | Administration Assistant |
| 4. Mr Long Heang | Officer of GMAC          |

**Worker party:**

Name: **Coalition of Cambodian Apparel Worker Democratic Unions (C.CAWDU)**

**Local Union of C.CAWDU**

Address: Prek Ta Pring Village, Sethbo Commune, S'ang District, Kandal Province

Telephone: 089 960 860

Fax: N/A

Representatives at the first hearing:

- |                     |  |
|---------------------|--|
| 1. Mr Muo Chheang   | Legal Officer of C.CAWDU                     |
| 2. Mr Sot Seam      | Legal Officer of C.CAWDU                     |
| 3. Mr Tek Andrew    | Legal Officer of C.CAWDU                     |
| 4. Mr Phen Sophea   | President of the Local Union of C.CAWDU      |
| 5. Mr Chek Bunsan   | Vice-President of the Local Union of C.CAWDU |
| 6. Mr Seng Seoung   | Secretary of the Local Union of C.CAWDU      |
| 7. Ms Phan Sopha    | Activist of the Local Union of C.CAWDU       |
| 8. Ms Sat Sreysor   | Activist of the Local Union of C.CAWDU       |
| 9. Ms Hoeun Chanthy | Activist of the Local Union of C.CAWDU       |
| 10. Ms Kim Sokhea   | Activist of the Local Union of C.CAWDU       |
| 11. Ms Lorn Vanna   | Activist of the Local Union of C.CAWDU       |
| 12. Ms Bo Sreyleak  | Activist of the Local Union of C.CAWDU       |
| 13. Ms Lorn Heng    | Activist of the Local Union of C.CAWDU       |
| 14. Ms Phen Bopha   | Activist of the Local Union of C.CAWDU       |

Representatives at the second hearing

- |                     |  |
|---------------------|--|
| 1. Mr Muo Chheang   | Legal Officer of C.CAWDU                     |
| 2. Mr Tek Andrew    | Legal Officer of C.CAWDU                     |
| 3. Mr Phen Sophea   | President of the Local Union of C.CAWDU      |
| 4. Mr Chek Bunsan   | Vice-President of the Local Union of C.CAWDU |
| 5. Mr Seng Seoung   | Secretary of the Local Union of C.CAWDU      |
| 6. Ms Phan Sopha    | Activist of the Local Union of C.CAWDU       |
| 7. Ms Sat Sreysor   | Activist of the Local Union of C.CAWDU       |
| 8. Ms Hoeun Chanthy | Activist of the Local Union of C.CAWDU       |
| 9. Ms Kim Sokhea    | Activist of the Local Union of C.CAWDU       |
| 10. Ms Lorn Vanna   | Activist of the Local Union of C.CAWDU       |
| 11. Ms Bo Sreyleak  | Activist of the Local Union of C.CAWDU       |
| 12. Ms Lorn Heng    | Activist of the Local Union of C.CAWDU       |
| 13. Ms Phen Bopha   | Activist of the Local Union of C.CAWDU       |

### **ISSUES IN DISPUTE**

(From the Non-Conciliation Report of the Ministry of Labour and Vocational Training)

1. The workers demand that the employer clearly allocate a piece rate to each worker. The employer refuses to accommodate this demand.
2. The workers demand that the employer allow the group leaders to register workers' attendance at their workstations. The employer refuses to accommodate this demand.
3. The workers demand that the employer allow them to re-sew incorrectly made shirts. The employer refuses to accommodate this demand on the basis of the product quality required by the buyers.
4. The workers demand that the employer reinstate Sat Sreysor and Hoeung Chanthy and back pay their wages. The employer refuses to accommodate this demand. The conciliator understands that this issue is an individual dispute.
5. The workers demand that the employer allow them to take leave as usual. The employer argues that it will implement its current practice.
6. The employer demands that the workers in the fixing section pay more attention when checking and fixing shirts. If the supervisors, group leaders, quality control officers in the factory, and the buyers find the quality of the shirts unsatisfactory, the employer demands that the workers check each shirt if necessary and that they not be paid. The workers refuse to accept this demand.
7. The employer demands that all workers obey the working arrangements set by the supervisors in their sections when there is not enough work or no work. The workers refuse to accommodate this demand.
8. The employer demands that the workers in the packaging section obey the working arrangements set by the supervisors in their section when there is not enough work or no work.

### **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. 136 dated 7 June 2011 (Ninth 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 non-conciliation report No. 323/12 KB/KN dated 5 April 2012 was submitted to the Secretariat of the Arbitration Council on 9 April 2012.

#### **HEARING AND SUMMARY OF PROCEDURE**

**Hearing venue:** The Arbitration Council, No. 72, Street 592, Corner of Street 327 (Opposite Indra Devi High School) Boeung Kak II Commune, Tuol Kork District, Phnom Penh

**Date of hearing:** First hearing: 23 April 2012 at 8:30 a.m.

Second hearing: 24 April 2012 at 8:30 a.m.

#### **Procedural issues:**

On 31 March 2012, the Department of Labour Disputes of Kandal Province received a complaint dated 28 March 2012 from C.CAWDU outlining the workers' demands for the improvement of working conditions by the employer. Upon receiving the claim, the Department held a session to conciliate the 10 issues, resulting in two issues being resolved. The eight non-conciliated issues were referred to the Secretariat of the Arbitration Council on 9 April 2012 via non-conciliation report No. 323/12 dated 5 April 2012.

Upon receipt of the case, the Secretariat of the Arbitration Council summoned the employer and the workers to a hearing and conciliation of the eight non-conciliated issues, held on 23 April 2012 at 8:30 a.m. A second hearing was held on 24 April 2012 at 8:30 a.m. Both parties were present at each hearing. The Arbitration Council conducted a further conciliation of the eight non-conciliated issues, but only issue 5 was resolved. The two parties agreed to combine issues 1 and 3. Issues 6, 7, and 8 concern the employer's legal right to supervise and direct the enterprise, which it refrained from exercising due to the prospect of strike action. Thus, the Arbitration Council has decided to combine the three issues as one.

As both parties are signatories to the Memorandum of Understanding On Improving Industrial Relations in the Garment Industry (MoU), dated 28 September 2010, the Arbitration Council will divide the issues into two types: rights disputes and interests disputes. In the MoU, both parties have agreed to choose binding arbitration of rights disputes. However, this does not apply to interests disputes. The parties are able to choose non-binding arbitration of interests disputes, and can object to an arbitral award on such disputes. Such an objection will not affect the parties' obligation to implement an award on rights disputes in accordance with the MoU.

In this case, the two parties chose binding arbitration of interests disputes. Thus, the award in this case will be binding.

At the hearing, the workers and the employer agreed to extend the due date for issuance of this award from 4 May until 18 May 2012.

The Arbitration Council will consider the issues in this case based on the evidence and reasons below.

### **EVIDENCE**

*This section has been omitted in the English version of this arbitral award. For further information regarding evidence, please refer to the Khmer version.*

### **FACTS**

- Having examined the report on collective labour dispute resolution;
- Having listened to the statements of the representatives of the employer and the workers; and
- Having reviewed the additional documents;

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

- Dignity Knitter Limited operates a garment factory and employs approximately 1,898 workers.
- The Local Union of C.CAWDU is the claimant in this case. The union represents 900 workers and holds a certificate of registration dated 30 July 2007.

#### **Issue 2: The workers demand that the employer allow the group leaders to register the workers' attendance at their workstations.**

- The employer's practice is to require workers to register their attendance and completed pieces at the group leaders' desks near the exit gate before leaving work.
- The workers state that the workforce at the factory is arranged into groups comprising 100, 80, or 30 workers. The workers would not have a problem with the employer requiring them to register their attendance during working hours. However, there is crowding after work because some groups contain many workers. Workers who cannot push through the crowd have to wait for 10 to 15 minutes before they can register their attendance with the group leaders. Thus, the workers demand that the employer allow the group leaders to register the workers' attendance at their workstations during working hours.
- The employer argues that registering attendance takes less than 10 minutes. If workers queue properly, there will be no crowding. The employer further contends that it is a waste of the group leaders' and the workers' time for the group leaders to

register the workers' attendance at their workstations. The employer states that it is easy to register the workers' attendance and completed pieces at the group leaders' desks after work.

**Issues 1 and 3: The workers demand that the employer pay their wages for rechecking and fixing shirts returned after the quality control section has checked them under the AQL standard.**

- The employer's practice is that the fixing section sorts the correctly and incorrectly made shirts (stage 1). Then, the group leaders conduct a further check of the correctly made shirts (stage 2). If the group leaders find a problem with those shirts, they return them to the fixing section for rechecking and fixing. The fixing section workers are not paid to recheck the shirts. The identity codes of the fixing workers are attached to the shirts. Normally, the group leaders check all the shirts. After stages 1 and 2, the identity codes are removed and the shirts are sent to the quality control section for a final check (stage 3) in accordance with the AQL Standard before being packed in cartons and transported to buyers. After stage 3, the buyer will do their own check, and if they find that the number of defective shirts exceeds the number allowed under the AQL Standard, they will not accept the shirts and will require the employer to fix them. The employer then gives the unaccepted shirts to the fixing workers for redoing, for which they are not paid.
- The workers state that the rechecking of shirts usually occurs five times per month, and lasts from a whole morning to two days. In stages 1 and 2, the identity codes allow the employer to identify the workers who have sewn incorrectly, and those workers are not paid for fixing the shirts. The workers argue that they should be paid at stage 3 because the identity codes have been removed and the employer does not know who has made the mistake.
- The workers make this demand because more checking in the production line means that they lose time and wages, as they are piece rate workers and the employer does not know who made the mistake.
- The employer argues that there is a joint responsibility for rechecking if the workers fail to check the shirts properly before they are checked under the AQL Standard by the quality control section. Normally, the buyers require the employer to remove any identity numbers or plates from the shirts when they are being checked under the AQL Standard by the quality control section. Thus, the employer cannot identify the workers responsible for each shirt.

- The employer contends that it does not want the workers to have to correct or recheck the shirts because it wastes electricity, water, time, and other expenses. Further, it results in the late delivery of goods, increased expenditure on transportation, and fines imposed the buyers. The employer further contends that if it pays the workers for correcting or rechecking, they will be encouraged to not check the shirts properly as they will be paid even when they make mistakes. Hence, the employer refuses to pay them if they are required to recheck their work.

**Issue 4: The workers demand that the employer reinstate the worker representatives Sat Sreysor and Hoeun Chanthy and back pay their wages.**

- The workers demand that the employer reinstate Sat Sreysor and Hoeun Chanthy and back pay their wages from the date of their dismissal to the date of reinstatement since the penalty of dismissal is not proportionate to their misconduct.
- **Case of Hoeun Chanthy**
  - Hoeun Chanthy, a fixing worker, has held an undetermined duration contract since 16 December 2004.
  - She was an assistant worker delegate before the expiry of her mandate on 16 January 2012. The employer is yet to arrange a new election.
- **Case of Sat Sreysor**
  - Sat Sreysor, a fixing worker, has held an undetermined duration contract since 23 March 2006.
  - At the hearing, the workers asserted that she is a union activist and member. However, the evidence dated 27 April 2012 does not prove that she is a member of the Local Union of C.CAWDU.
- **Dismissal of Hoeun Chanthy and Sat Sreysor**
  - On 16 March 2012, the employer dismissed Hoeun Chanthy and Sat Sreysor, notifying them in advance on 15 March 2012 at 4:15 p.m.
  - The workers state that they were dismissed because they participated in the strike on 15 March 2012 and complained on behalf of other workers in their section about the shirt rechecking because the shirts were not checked by them in stage 1.
  - The employer argues that the dismissal of the two workers does not give rise to a collective labour dispute, as the conciliator determined at the conciliation session that it was an individual labour dispute. Further, the employer dismissed them for misconduct.

- The workers argue that the dispute is collective because the two workers made a complaint representing the interests of the whole section and also because they participated in the strike held from 15 March to 17 April 2012. Moreover, they are union members.
- The employer dismissed them because they did not follow its instructions and directions and led the fixing workers in strike action. On 1 March 2012, the employer gave Sat Sreysor and Hoeun Chanthy a first warning. On 15 March 2012, the employer warned them in writing three times for insubordination.
- The employer states that as Hoeun Chanthy is a former assistant worker delegate, it made a request to the Department of Labour Disputes for authorisation to dismiss her via letter No. 008 dated 21 March 2012. The Department of Labour Disputes of Kandal Province authorised the employer to dismiss Hoeun Chanthy in letter No. 319/12 dated 4 April 2012.
- The workers state that they have appealed against the authorisation to the Minister for Labour and Vocational Training.

**Issue 5: The workers demand that the employer allow them to take annual leave as usual.**

- The employer agrees to implement the provisions of the Labour Law governing annual leave. Thus, the Arbitration Council will not consider this demand.

**Issues 6, 7, and 8: The employer demands that the workers follow its directions as follows:**

- **The workers in the fixing section pay more attention to checking and fixing shirts, and take responsibility for rechecking the shirts.**
- **All workers obey the work arrangements made by the supervisors in their sections when there is not enough work or no work.**
- **Workers in the packaging section obey the work arrangements made by the supervisors in their section when there is not enough work or no work.**
- At the hearing, the employer requested the workers to follow its directions and supervision. The Arbitration Council will not consider these three issues as the employer's right to supervise and direct is already determined by the Labour Law and no specific facts were presented concerning the implementation of this right.



## **REASONS FOR DECISION**

### **Issue 2: The workers demand that the employer allow the group leaders to register the workers' attendance at their workstations.**

Before considering this issue, the Arbitration Council considers whether it gives rise to a rights or an interests dispute.

In previous arbitral awards, the Arbitration Council has ruled that a rights dispute concerns entitlements in the law, an agreement [employment contract], or a collective agreement (*see Arbitral Awards 05/11-M & V (Branch 1), reasons for decision, issues 1 & 5 and 13/11-Gold Kamvimex, reasons for decision, issues 1 & 2*).

The Arbitration Council applies this ruling in this case.

According to the facts, the two parties are engaged in a dispute involving the management of the workers' attendance, which has a basis in the Labour Law. Thus, the Arbitration Council considers this to be a rights dispute.

The Arbitration Council considers whether the workers have the right to demand that the employer register workers' attendance at their workstations.

Paragraph two of Article 2 of the Labour Law provides that “[e]very enterprise may consist of several establishments, each employing a group of people working together in a defined place such as in [a] factory, workshop, work site, etc., under the supervision and direction of the employer.”

In previous arbitral awards, the Arbitration Council has considered this article to mean that the employer has the right to direct and supervise the enterprise as long as this right is exercised lawfully and reasonably (*see Arbitral Awards 17/07-Charm Textile, reasons for decision, issue 3 and 116/07-Grace Sun, reasons for decision, issue 2*).

In this case, the Arbitration Council considers that registering the workers' attendance is part of the employer's managerial right. Thus, the workers cannot make this demand [if the employer's managerial right is exercised lawfully and reasonably].

According to the facts, the workers argue that those workers who cannot push through the crowd have to wait for 15 minutes to register their attendance at the group leaders' desks. This is the reason for the workers' demand. However, the employer argues that the task takes only 10 minutes to complete even if there is a crowd. It takes longer than required because the workers do not queue properly.

The Arbitration Council goes on to consider whether the employer's direction, requiring workers to spend time beyond their working hours registering their attendance, is reasonable and lawful.

Article 137 of the Labour Law provides that “[i]n all establishments of any nature, whether they provide vocational training, or they are of a charitable nature or liberal profession, the number of hours worked by workers of either sex cannot exceed eight hours per day, or 48 hours per week.”

Article 139 of the Labour Law states:

In case of special urgency which requires workers to work overtime other than the usual working hours, the overtime hours shall be paid at an increased rate of 50%. Working overtime at night between 10:00 p.m. to 5:00 a.m. or weekly time off, shall be additionally paid at an increased rate of 100%.

In Arbitral Award 27/12-Ying Dong, reasons for decision, issue 11, the Arbitration Council interpreted Articles 137 and 139 to mean that:

Working hours comprise eight hours per day or 48 hours per week. If the work goes beyond the working hours stipulated in Article 137, it is overtime work. The payment for overtime work must be calculated as stated in Article 139 of the Labour Law. Thus, the employer must respect the working hours of the workers.

According to the facts, working hours are from 7:00 to 11:00 a.m. and from 12:30 to 4:30 p.m. The workers are not allowed to leave work immediately at 4:30 p.m. The employer requires them to register their attendance before leaving. The registration begins at 4:30 p.m. and lasts for up to 10 to 15 minutes.

The Arbitration Council considers that spending 10 to 15 minutes to register attendance is akin to working overtime for the employer without being paid. Regarding the employer’s assertion that the workers’ improper queuing causes the delay in registering attendance, the Arbitration Council considers that this is an issue that the employer must resolve. In this case, the employer should have more staff members to control the queue during attendance registration or should provide attendance lists in order to reduce the waiting time.

The Arbitration Council considers that the employer’s direction requiring the workers to stay at the factory beyond working hours to register their attendance is not reasonable or lawful, but the workers’ demand that the employer register their attendance at their workstations is also not reasonable. The reason that the employer does not want to register the workers’ attendance during working hours is that it wastes both the employer and workers’ time, as the workers are piece rate workers. Thus, the Arbitration Council considers that the employer can arrange for the registration of attendance to take place after work, in a way that does not require the workers to spend an unreasonable time waiting. The Arbitration Council orders the employer to finish registering the workers’ attendance within 10 minutes after the end of working hours.

In conclusion, the Arbitration Council rejects the workers' demand that the employer register the workers' attendance at their workstations, and orders the employer to finish registering the workers' attendance within 10 minutes after the end of working hours.

**Issues 1 and 3: The workers demand that the employer pay their wages for rechecking and fixing shirts returned after the quality control section has checked them under the AQL standard.**

Before considering this issue, the Arbitration Council considers whether it gives rise to a rights or an interests dispute.

As this issue concerns the responsibility for fulfilling obligations under the employment contract between the parties and the employer's managerial prerogative under the Labour Law and the Civil Code, the Arbitration Council considers it to be a rights dispute (see the interpretation regarding rights disputes in the reasons for decision, issue 2).

The employer's practice is to require the workers to check the shirts with the workers' identity codes attached in stages 1 and 2. Following these stages, the shirts are checked by the quality control section under the AQL Standard before being packed in cartons. If the quality control section has found defective shirts in excess of the number determined by the AQL Standard, the employer will return those shirts (including the shirts that have not gone through stage 3) to the fixing workers for rechecking. The fixing workers are not paid for this check.

The Arbitration Council considers whether the workers are entitled to wages for rechecking shirts after they have been checked by the quality control section under the AQL Standard.

The employer has the right to supervise and direct the enterprise as long as this right is exercised lawfully and reasonably (see the interpretation of Article 2 in the reasons for decision, issue 2).

According to the facts, all fixing workers work in the production line set by the employer. In this production line, the fixing workers are required to recheck all shirts without being paid if the quality control section determines that those shirts fail to meet the AQL Standard. The workers' identity codes are attached to the checked shirts for stage 1. In stage 2, the group leaders and the other workers check those shirts again to ensure their quality.

The Arbitration Council considers that the fixing workers fulfil their employment obligations by checking the shirts in stage 1. In stage 2, if the group leaders have found mistakes in their work, the fixing workers agree not to be paid.

The Arbitration Council considers that the employer ought to pay more attention to conducting a detailed check of the shirts made by the workers. The responsibility of the fixing

workers is relieved in stage 2, when the group leaders find the shirts to be acceptable or defective and send them back for rechecking. Thus, the employer ought to take action or have a strict strategy in place to check all the shirts in stage 2. Checking the shirts in stage 2 allows the employer to return the defective shirts to the workers for rechecking and fixing. In conclusion, the Arbitration Council considers that this is a reasonable and lawful exercise of the employer's right to supervise and direct the production line.

However, it is not the responsibility of the fixing workers to recheck the shirts once they have been checked by the quality control section under the AQL Standard because their responsibility was relieved in stage 2 when their work was checked by the group leaders.

The Arbitration Council goes on to consider whether the workers are entitled to be paid for rechecking the shirts after the stage 3 check.

Article 664 of the Civil Code states that “[a] contract of employment is formed by the promises of one party to perform services under employment, and another party to pay wages for it.”

It is a new requirement that all shirts be rechecked [by the fixing workers] after being returned by buyers following the check by the quality control section under the AQL Standard. Thus, the Arbitration Council considers that the employer must pay wages to the workers if it requires them to recheck all shirts after they have been checked under the AQL Standard and returned by the quality control section.

In conclusion, the Arbitration Council orders the employer to pay wages to the fixing workers if they are required to recheck all shirts after they have been returned by the quality control section.

**Issue 4: The workers demand that the employer reinstate the worker representatives Sat Sreysor and Hoeun Chanthy and back pay their wages.**

Before considering this issue, the Arbitration Council considers whether it gives rise to a rights or an interests dispute.

As this issue concerns the dismissal of workers, which is covered by the Labour Law, the Arbitration Council considers it to be a rights dispute (see the interpretation regarding rights disputes in the reasons for decision, issue 2).

In this case, the employer refuses resolve its dispute with Sat Sreysor and Hoeun Chanthy as a collective dispute, on the basis that it is an individual dispute.

Thus, the Arbitration Council considers whether or not the dismissal of Sat Sreysor and Hoeun Chanthy gives rise to a collective dispute.

Article 302 of the Labour Law states:

A collective labour dispute is any dispute that arises between one or more employers and a certain number of their staff over working conditions, the exercise of the recognised rights of professional organisations, the recognition of professional organisations within the enterprise, and issues regarding relations between employers and workers, and this dispute could jeopardise the effective operation of the enterprise or social peace.

In Arbitral Award 10/03-Jacqsintex, the Arbitration Council ruled that:

In any case, the Arbitration Council agrees with the decision of the Minister that this dispute fulfills the conditions for [characterisation as a] collective dispute set out in Article 302 of the Labour Law. These conditions are:

- A. there is a dispute between one or more employers and a number of employees;
- B. the issue in dispute relates to working conditions, the exercise of the rights of professional organisations, the recognition of professional organisations, or relations between employees and employers; and
- C. the dispute could lead to the disruption of the enterprise.

The Arbitration Council applies this ruling in this case. Based on the facts, the Arbitration Council finds that the dispute involves two workers demanding that the employer reinstate them. Thus, condition A is fulfilled because the dispute concerns one employer and a number of workers.

Condition B is also fulfilled because the dispute arises out of the employment relationship between the employer and Sat Sreysor and Hoeun Chanthy. Further, the workers have a dispute with the employer over the working conditions set by the employer.

The Arbitration Council considers that condition C is not fulfilled due to the fact that Sat Sreysor and Hoeun Chanthy were dismissed by the employer on 16 March 2012, one day after the workers in their section went on strike expressing dissatisfaction with the employer bringing shirts to them for rechecking, none of which was their previous work. Thus, the Arbitration Council considers that the strike was not aimed at supporting the demand for Sat Sreysor and Hoeun Chanthy's reinstatement.

In addition, the evidence proves that Sat Sreysor is not a union member. Hence, the Arbitration Council considers that she is unlikely to obtain endorsement from other workers even though she joined other workers in the strike. Regarding Hoeun Chanthy, the Arbitration Council considers that although she was an assistant worker delegate, the employer dismissed her after her mandate had expired. Thus, she cannot represent other workers at the factory even though she is a union member. Moreover, the Arbitration Council finds that

as at the hearing date, this dispute had not disrupted the effective operation of the enterprise or social peace.

Since condition C is not fulfilled, the Arbitration Council considers that this dispute is not collective. Thus, the Arbitration Council does not have jurisdiction over the dispute.

Therefore, the Arbitration Council declines to consider the workers' demand that the employer reinstate Sat Sreysor and Hoeun Chanthy.

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

**DECISION AND ORDER**

**Issue 2:**

- Reject the workers' demand that the employer registers the workers' attendance at their workstations.
- Order the employer to finish registering the workers' attendance within 10 minutes after the end of working hours.

**Issue 3:** Order the employer to pay wages to the fixing workers if they are required to recheck all shirts after they have been returned by the quality control section.

**Issue 4:** Decline to consider the workers' demand that the employer reinstate Sat Sreysor and Hoeun Chanthy.

**Type of award: binding award**

This award will become final and enforceable immediately after the issuance of this award in accordance with the parties' agreement on binding arbitration at the hearing on 23 April 2012.

**SIGNATURES OF THE MEMBERS OF THE ARBITRAL PANEL**

Arbitrator chosen by the employer party:

Name: **Ing Sothy**

Signature: .....

Arbitrator chosen by the worker party:

Name: **An Nan**

Signature: .....

Chair Arbitrator (chosen by the two Arbitrators):

Name: **Kong Phallack**

Signature: .....