

Generally, the following documents are to be provided before a hearing date:

By Employer	<ol style="list-style-type: none"> 1. Brief statement of agreed facts 2. Certificate of business registration 3. Statute, Memorandum of the Company 4. Company internal work rules 5. Agreement or Collective Bargaining Agreement between employer and workers 6. Other documents related to the labour dispute
By Union	<ol style="list-style-type: none"> 1. Brief statement of agreed facts 2. Certificate of union registration and union statutes (most representative status) 3. Agreement or Collective Bargaining Agreement between employer and workers 4. Other documents related to the labour dispute

The Arbitration Council may require you to provide additional documents.

The Secretariat will advise you if the Arbitration Council requires further documents. The Secretariat will also advise you **when** the documents must be given to the Secretariat.

Evidence can be a **spoken statement** from a **witness** who knows what is true.

At a hearing, a witness can give oral evidence by telling the truth to the Arbitration Council.

At the hearing the Arbitrators can question the witness. You and the other party are also entitled to question the witness. The other party is entitled to bring their own evidence that may dispute or contradict your evidence.

Copies of documents

If you are required to give documents to the Arbitration Panel, you need to give to the Secretariat the following number of documents:

One copy for each Arbitrator (three copies)

One copy for the Secretariat file

One copy for each other party

If you do not give the Secretariat enough copies of your document, the hearing may be delayed.

Example

If the Arbitration Panel directs you to submit a Certificate of Business Registration or a Certificate of Union Registration, you need to give to the Secretariat **5 copies** of the document.

The documents should be given to the Secretariat **prior to** the day of the hearing.

For more information, please contact:

SECRETARIAT OF THE ARBITRATION COUNCIL

**Room 331, Building A, Phnom Penh Centre
Sangkat Tonle Bassac, Khan Chamkarmon
Phnom Penh, Cambodia**

Tel: (855) 23 223 506

Fax: (855) 23 224 979

E-mail: info@arbitrationcouncil.org

Website: www.arbitrationcouncil.org

មូលនិធិក្រុមប្រឹក្សាអាជ្ញាកណ្តាល

ARBITRATION COUNCIL FOUNDATION

Guide to:

Case Preparation



Case Preparation

This guide briefly explains the steps you need to take to prepare your case for proceedings at the Arbitration Council.

You should also consult the *Labour Law (1997)* and regulations, including the *Prakas* on the Arbitration Council No. 099 dated 21 April 2004.

Further information is available in the booklet "The Arbitration Council. Questions and Answers" and "The Arbitration Council and the Process for Labour Dispute Resolution in Cambodia" published by the ILO-Labour Dispute Resolution Project in Cambodia.

These publications are available from the Secretariat of the Arbitration Council.

Role of Arbitrators

Three Arbitrators compose the Arbitration Panel and preside over the arbitration process.

The Arbitrators are independent and neutral. This means that each Arbitrator will hear your case on its merits without bias towards either party.

The parties can only speak to the Arbitrators during a hearing. Any communication between the parties and the Arbitrators outside of a hearing shall take place through the Secretariat of the Arbitration Council.

Role of Secretariat

The Secretariat's role is to facilitate the labour dispute resolution of the Arbitration Council. The Secretariat can give you assistance with the procedure to follow but they **cannot give you legal advice**.

The Secretariat is a neutral office. They act without bias towards either party.

Party Representative

If you are going to be represented by a lawyer who is a member of the Bar Association of the Kingdom of Cambodia or by another person, that lawyer or person **must be authorized in writing** by you to appear for them. The representative must be a person with a good understanding of the labour dispute and with the authority to make agreements with the other party.

The form of letter of authority for representation can be obtained from the Secretariat.

Example

- ◆ If you are the Administrator for a Company, you will need a written authority from the Owner of the Company.
- ◆ If you are *not* a Registered Union, you will need a written authority from each Worker you represent.
- ◆ If you are a Registered Union, you will need a written authority from each Worker you represent who is *not* a Union Member. (If you are a Registered Union, you will not need a written authority from the Workers who are Union Members.)

It is very important that the authority for representation is given to the Secretariat before the hearing begins. If the authority is not available the hearing may be delayed.

Argument

Your argument is the reason why you believe the Arbitration Council should decide the case in your favour and not in favour of the other party.

At the hearing, the Arbitrators will hear your argument and will hear the other party's argument.

At the hearing, you should be ready to talk about your argument for each issue that is in dispute.

Example

- ◆ What happened and any other relevant facts? (Know the key events and dates)
- ◆ What is your demand or what is your response to the other party's demand?
- ◆ What is an acceptable compromise for you?
- ◆ Why do you believe the demand should be accepted or rejected by the Arbitration Council?
- ◆ What are the relevant Labour Law articles?

Evidence

Evidence is something that supports your argument about an issue in dispute and proves what the real facts in a case are. In some cases, facts are in dispute (for example, parties do not agree about what really happened); in those cases, evidence can help to resolve the disputed facts.

The Arbitration Council will decide if the evidence is acceptable or not, if it is important and if it is enough to support your argument.

If both you and the other party agree that certain facts are not in dispute, then you should tell the Arbitrators about your agreed facts.

Evidence can be **a written document** that supports the argument you are putting in your case.

Example

- ◆ A Collective Bargaining Agreement can be evidence of the agreement between an Employer and a Worker about the working conditions.
- ◆ A payroll or payslips can be evidence of the amount of money paid by the Employer to Workers.