

**IN THE TRADE DISPUTES PANEL
SOLOMON ISLANDS**

Case No. L9/19/03

Between: Silvania Products (SI) Ltd (Applicant)

And: S. I. National Union of Workers (Respondent)

FINDING

By letter dated 21st November 2003, James Apaniai acting for the Applicant referred a trade dispute to the Panel between the Applicant and the Respondent pursuant to the provisions of the **Trade Disputes Act (cap 75)**.

The dispute relates to the issue of whether or not the 5 % increase on the wage structure (Appendix III) awarded under the terms of the Agreement signed between the Applicant and the Respondent on 31/7/03 also apply to incentives payable to contracted employees of the Applicant.

FACTS

The facts leading to the dispute is as follows. On 29/11/02, the Applicant executed a Recognition Agreement under which the applicant gave recognition of the respondent as the duly authorized representative of the Applicant's employees for the purpose of negotiating their terms and conditions of employment.

On 31st July 2003, the Applicant and the Respondent further executed a Memorandum of Agreement which incorporated the Recognition Agreement (Appendix I), a Terms & Conditions of Service ("Appendix II), a Salary Structure, Allowances & Incentives ("Appendix III) and Company Rules ("Appendix IV).

According to Paragraph 2.1 of Appendix III, the parties agreed that a new wage structure would include a 5% wage-increase back dated to 1st January 2003. Certain allowances (eg, tool allowance, Housing allowance, Long Service Benefit, Acting Allowance, Canoe Driver's allowance, Sea-Going Allowance, Multi-skilled Allowance and Transport Allowance) were also agreed.

On 16th October 2003, the Respondent submitted to the Applicant a claim for 5% increase in the incentive bonuses payable to peace rated or contracted workers was part of the 5% wage increase agreed to on 1st January 2003.

The Respondent however disagreed with the claim on the basis that the 5% increase under the MOU signed between the Applicant and the Respondent on 31/7/03 applies to wages only and that nothing was agreed to in relation to the incentive allowances. This was the effect of the Applicant Solicitor's letter dated 7/11/03.

In its written submission, however, the respondent stated that the 5% increase also covers incentive allowances for the contracted workers of whom it also represents under the Recognition Agreement. It argued that that was the subject of their negotiation with the Applicant, resulting to the signing of the Memorandum of Agreement dated 31st July 2003. It further invoked the operation and duration part of the Collective Agreement which provides for the review of appendix III (wages, allowances and incentives) as the basis for its claim for the 5% increase incentive bonuses for its contracted (peace rated) workers.

The question really is whether the incentive allowance for the contracted employees was also the subject of negotiation which resulted to the signing of the Memorandum of Agreement dated 31st July 2003. The respondent seems to argue that that was the case, but failed to produce any evidence in support of their argument. There was no evidence also to suggest that the incentives were in fact negotiated but were not inserted in the Memorandum of Agreement when the agreement was drafted.

In the absence of such evidences, the Panel will have to rely entirely on the Memorandum of Agreement to consider whether that agreement also caters for any increase on the incentives payable to the contracted workers then. Apparently, there were none except various allowances that were listed under Appendix III (clauses 3 to 10) of that agreement.

That being the case, the panel cannot make an award that would in effect inconsistent with the terms of a well negotiated agreement duly executed by the parties.

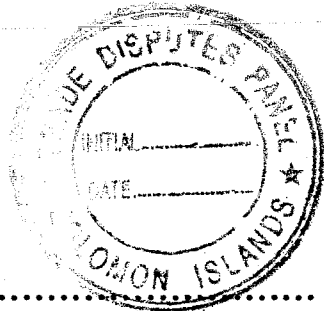
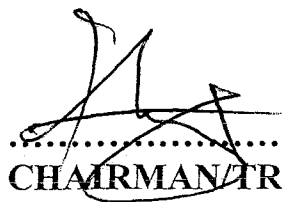
Furthermore to simply invoke the operation part of the Collective Agreement as the basis for the respondent's claim for incentive allowances cannot be accepted. That part of the agreement simply allows the parties to review Appendix III (wages, allowances and incentives) at the end of every 12 months, whilst the whole agreement continues to in force for the duration of 36 months.

Having said that, the panel finds that the 5% wage increase under the Memorandum of Agreement dated 31st July 2003 does not affect incentives payable to the contracted employees.

ORDER

The Panel orders that both parties pay \$1,000 each towards panel expenses within seven days.

On behalf of the Panel:



CHAIRMAN/TRADE DISPUTES PANEL