

How to bind obligations of a company under the laws of Cambodia?

Pursuant to Article 98 of Law on Commercial Enterprises (LCE), a company comes into existence and acquires legal personality on the date shown on the certificate of incorporation. That means a company and shareholders are different persons. The property of the company is not property of the shareholders. On the one hand, the company can own the property and take all legal actions against any person or protect its interest. On the other hand, the company is liable for its actions and can be sued in case where it breaches its contractual obligations or other obligations as imposed by laws.

There might be question how a company can perform its actions or doing businesses since it is not a natural person like human being. The answer is that company does activities through its agents. In a company, there are shareholders (who are owners of the company and establish the Articles of Incorporation-Art. 95 of LCE), directors (who are nominated by the shareholders to run the company-Art. 119 of LCE), and executive employees (CEO, CFO, etc. who are nominated by board of directors to assist the board of directors and run day-to-day operation of the company-Art. 138 of LCE). These people perform all activities on behalf of the company by following rules set forth in Articles of Incorporation. Any conduct of the shareholders, directors, or executive employees taken in the contrary to the rules in the Articles of Incorporation is not considered as conduct of the company and consequently such conduct cannot bind the obligations of the company.

To bind the obligation of a company, we must make sure that the agent/signatory/representative is duly appointed or authorized to do any action for and on behalf of the company pursuant to Articles of Incorporation. To confirm such authority, at least we need to check the most updated Certificate of Incorporation and Articles of Incorporation filed with Ministry of Commerce. In general, board resolution is enough to authorize the action of a company and appoint someone to act for and on behalf of a company. However, in some activities which are not ordinary business activities of the company, shareholders resolution is required. We may know this only when we read the Articles of Incorporation of that company.

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