

Fair Wear Campaign submission to the Parliamentary Joint Statutory Committee on Corporations & Securities Inquiry into Corporate Code of Conduct Legislation 2000

Introduction

FairWear is a national coalition of churches, community groups and trade unions which aims to assist workers in the Australian clothing, textile, and footwear industries to achieve their rights to just and fair wages, to organise and to work in a safe and healthy environment.

FairWear works closely with international human rights bodies and trade unions, such as the international Clean Clothes campaign and Homenet. Fair Wear receives constant reports of exploitation in neighbouring countries where Australian companies source production. (See Appendix 1).

As a consumer campaign we represent the interests of many community members who want assurances that the clothes they purchase have been made under fair conditions. Research carried out by the NSW Government as part of its 'Behind the Label' strategy demonstrates that Australian consumers do not want to buy clothes made in sweatshops – in Australia or China, Fiji, Bangladesh or Burma. Currently there is no way for ordinary citizens to know what standards are being adhered to, even by our well-known Australian brands, in their overseas production.

It is Fair Wear's view that the level of exploitation of workers by Australian companies demonstrates that legislation is required. There is a need for strong leadership from governments to ensure that corporations respect the basic human rights of all employees that are involved in producing products for their company, particularly those as globalised as clothing.

Fair Wear Supports the Bill

FairWear Campaign fully supports the intention of the proposed Code of Conduct Bill:

- To make Australian corporations accountable for their work practices in other countries.
- To use ILO conventions as the standard with regard to labour practices.
- To enforce the right of workers to form and join trade unions.
- To establish a system of reporting and enforcement of the standards.
- To legislate to achieve this end – this is preferable to voluntary codes that are being increasingly questioned for their effectiveness in achieving justice for clothing workers.

Recommendations

Summary of Recommendations

1. The Legislation must address the issue of subcontracting and outworking.
2. The Legislation must include an effective system of monitoring.
3. Smaller companies be included otherwise many in the clothing industry will not be covered.
4. Companies that operate ethically deserve recognition, and should be branded accordingly.

Companies should not be able to contract out of their obligations under the Legislation.

- ◆ The majority of manufacturing of clothing for Australian corporations is not carried out directly by Australian corporations, but by subcontractors (see Appendix 2.)
- ◆ The legislation must hold Australian corporations responsible for the work practices of the local companies to whom they subcontract.
- ◆ Clothing workers are often employed by local subcontractors not the Australian corporation.

Fair Wear recommends that the legislation be amended to include provision for Australian companies to include ethical clauses in any contracts with suppliers or subcontractors which specify environmental, labour and human rights standards that must be adhered to. Non-compliance by subcontractors and suppliers with the standards must be considered a substantial breach of the contract leading to termination.

Fair Wear further recommends that reporting requirements include:

- a) sample contracts with suppliers and subcontractors and
- b) lists of all subcontractors, including company name, owners or board of directors, location and number of employees for the purposes of monitoring.

Further, the definition of employee or person engaged to carry out work must include outworkers and homeworkers.

Fair Wear recommends that the definition of employee be expanded to include the ILO Convention on Homework.

The Legislation must include a mechanism for independent monitoring.

- ◆ The process recommended in this Bill depends on self-reporting and complaints. This is inadequate and will lead to the failure of the legislation to meet its stated aims.
- ◆ It is the experience of Fair Wear, following the negotiation of the Homeworkers Code of Practice in Australia, that workers are reticent to make complaints for fear of losing their jobs or retribution. The Retail section of the Homeworkers Code of Practice is complaints based. No formal complaints have been received in the four years that it has been in place while investigations and informal evidence demonstrate that widespread exploitation of outworkers continues. International reports verify that the same is true in countries all around the world.
- ◆ Independent and unannounced monitoring is required to formally verify reports, in addition to a process for responding to anomalies and complaints. Complaints alone will not reflect the whole picture regarding workers' rights. Monitoring must not only be on the basis of complaints, but rather, in order to uphold 'best practice'.
- ◆ Reports must be available to the community. Transparency in monitoring is essential

Fair Wear recommends that the legislation be amended to include an independent monitoring program. This should be based on the UK Ethical Trading Initiative (ETI) system that includes funding for pilot monitoring programs. Trade Unions must be involved in monitoring.

Legislation should cover companies employing or engaging 20 or more people.

- A large proportion of clothing is made by companies engaging or employing less than 100 people.
- There is no evidence to suggest that smaller companies are less exploitative than larger companies.
- The Legislation does not impose a high administrative burden.

- Similar international legislation, such as the US Code, covers companies employing or engaging 20 or more people.

Fair Wear recommends that section 4 be amended to read ‘employs or engages the services of 20 or more persons in a country other than Australia’.

Companies should receive recognition for operating ethically off-shore as well as in Australia.

- ◆ Consumers desire greater knowledge of the ethical standards of companies. Research demonstrates that consumers will buy items that are made ethically in preference to those that are not.
- ◆ When companies are accredited under the Homeworkers Code of Practice in Australia, they can display a No Sweat Shop label in their clothing.

Fair Wear recommends that the legislation include a labelling system to inform consumers which companies attain best practice in their ethical standards.

Appendix 1

The following report is an example of reports received by Fair Wear via the Clean Clothes Campaign. It outlines the retrenchment with out severance pay of workers in Thailand. Myer Grace Bros is listed as one of the companies that sourced garments from the factory.

Source: Thai Labour Campaign

Company Profile:

Thai Iryo Public Company Limited and Thai Iryo Garments ltd.

Address 31/9 Phaholyothin Rd., k.m. 35 Pathumthani, Thailand

Telephone: + 66 2 516-8731-3,
516-8831-5,
516-8490-4

Fax: +66 2 516-8743,
516-9475

Establishment:

Thai Iryo: June 26th, 1972
Registered: 9.58 million baht
Thai Iryo Garment: June 19th, 1984
Registered: 100 million baht

Thai Iryo:

Machinery: 800 SETS
Production capacity: 7000 Doz per month
Workforce 1,100 person
Bankers: Siam Commercial Bank
Bangkok Bank

Customers:

USA 60%
NIKE, ADIDAS, FILA SPORT, LONDON FOG, BACHRACH, PHILIPS
VANHOUSEN, TIMBERLAND
EU 30%
CLOUD NINE, ROSNER, LEVI'S, EPA, DANNIMAC, DIESEL
Other 10%
CAPITAL GARMENT,
MYER GRACE BROS

U.S.A. BASIC QUOTA 334/634, 335/635,
336/636, 341/641,
647/648

EU BASIC QUOTA 6/8/21

MINIMIUM ORDER PER STYLE 200 DOZ

PRODUCTION LEAD TIME APPROXIMATELY THREE MONTHS AFTER LAB-DIP APPROVAL

Thai Iryo Public Company and Thai Iryo Garment Company laid off their 1,236 workers on August 30th, 2000.

The owners of these two companies are Chutipat Bodiratnangkura, Nkorn Prachuabmoh, General Charoensakdi Thiengtham and Vorachan Thiengtham of the Sukri Bodiratnangkura family.

Both companies were affected by the Thai economic crisis in the summer of 1997. Thai Iryo, which employed 1,900 workers, laid off 259 workers in early 1998 and another 389 in September of 1998. Thai Iryo Garment laid off 776 of its 2,300 workers during the same period.

The two companies decided to merge on October 16th, 1998.

Since 1998, the company has made use of article 75 of the labour protection law, implementing temporary shut downs and operating the factory only 4-5 days a week. However, during workdays the employees are required to work 12 hours a day.

Thai Iryo and Thai Iryo Garment are under the Bodiratnangkura Textile Conglomerate which has 22 companies operating under this family business. This includes Par Garment and its subsidiaries, Thai Melon Textile, Thai Cotton Mill, Thai Synthetic Textile, Thai Tricot, Thai American Printing, Thai Coats Thread, Thai Textile Printing, Thai Kri Textile, Thai Accessories Commercial, Nishin (Japan), Bodirattex International (Hong Kong), TBI Group International (Los Angeles), and others.

THE CRISIS FROM INTERNAL PROBLEM

Bad management and corruption in the previous management meant the company was lost in business and facing cash flow crisis.

In its annual report, issued August 31st, 1998, Thai Iryo reported losses of 345.40 million baht and only 275.82 million baht equivalent of assets. On August 31st, 1999, Thai Iryo Garment reported losses of 342.25 million baht and 119 million baht equivalent of assets.

The company told the workers that the problem was not a shortage of work orders, but the problem was with cash flow as banks refused to give the company a loan.

WORKERS HAVE THEIR BENEFITS AND WAGES CUT TO HELP THE COMPANY.

Because of the crisis, the workers allowed the company to apply article 75 of the labour protection act to temporarily close down the factory from November 1999 to January 2000.

In addition, both companies have violated many of the agreements with the union. From 1997-2000 the company paid only 30%-50% of a promised bonus to Thai Iryo Garment, and 50%-70% to Thai Iryo. The company also refused to pay grade money to all workers.

Since early this year the company has produced mostly Nike and Timberland products by subcontracting from other factories.

Due to good relations between the management and the union, the union and its members agreed to help the company survive the crisis and agreed to receiving only 50% wages.

ANNOUNCEMENT OF CLOSING DOWN WITHOUT NOTICE.

On August 30th, 2000, without consulting with the union, the company posted a letter announcing their closing, claiming of the lost of capital. The company did agree to pay full severance to all the workers.

Yet, until now the company has only pay 13 million baht which compiles a mere 20% of the severance pay and there is no clear agreement when will the rest of the money (52 million baht or 80% of the severance pay) will be issued.

The union reported that after the closing down of the factory, many machines have been transferred to Korat Footwear.

THE ROLE OF THE UNION IN THESE TWO FACTORIES.

Thai Iryo union has been formed since 1976. Aporn Pho-Anukul, the first chairwoman of the union died in an accident on January 30th 1978. Many workers believe she was murdered as she had been very active in forming the union.

The union has gone on strike three times: in 1982, 1986 and 1998. The last strike took 21 days and over 300 workers were laid off.

Thai Iryo Garment Union was formed in 1991 and has never called for a strike.

OBSERVATION:

The union suspects that the closing down of the factory may be one of the techniques applied by the management to get rid of the older workers who strongly participate in union activities.

This is because the Bodiratnangkura business group has closed down many factories that have strong union participation, especially Thai Melon Textile, Thai Melon Polyester, and Thai Blanket Industry in 1997.

CHRONOLOGY:

August 30th: The company posts a letter to close down the factory and makes an appointment for the workers to receive severance pay on September 15th. The company also says that they will pay the wages from September 1st to 15th in lieu of notice.

September 1st: The workers' union presents a letter of protest to Mr. Sawai Prammani, the chairman of the Parliamentary Labour Committee.

September 12th: The workers' union presents a protest letter to Mr. Irawat Chanprasert, the Permanent Secretary for Ministry of Labour.

September 20th: The employers pay only 2 months severance payment. Most of the workers are still owed 60-80% of their severance pay.

The negotiation between the workers' representatives and employers has been set. However, the company claims that there is no money to pay the workers right now but will pay them during October and will mail the money to them through Express Mail System.

September 21st: The workers' representatives inform the Parliamentary Labour Committee to follow up on their case.

September 22nd: The workers' representatives hand a letter to Mr. Ekapot Panyam, the Member of Parliament from that province to help communicate with the Prime Minister about their problem.

September 24th: The union presents the letter to the Prime Minister in hope to solve their problem.

September 27th: The negotiation is set, but there is no progress from the employer.

The Labour investigation officers order the company to pay the remaining severance pay money to all the workers.

September 28th: All the workers demonstrate at the Thai Government House trying to meet with the Prime Minister. Mr. Prayuth Siripanich, the deputy Minister for Labour and few more MOL officers meet with the workers. The workers are told that the Ministry of Labour will enforce its order to the company to comply with the Labour Investigation Officers within 15 days.

September 29th: Deputy Minister, Prayuth Siripanich promises that he will enforce the employers to follow the labour protection laws.

October 7th: 349 workers representatives file a lawsuit against their employers at the Klong Luang Police station.

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Appendix 2

In the decade from 1985/6 the level of Australian clothing imports rose almost threefold from \$568million to \$1638 million. [Mayhew and Quinlan, 1998, Outsourcing and Occupational Health and Safety, UNSW Industrial Relations Research Centre]

Several of the large clothing retailers in Australia stock 100% imports. It was on this basis that Jeans West argued that there was no need for them to sign the Homeworkers Code of Practice – the Australian industry-based voluntary Code advocating an end to exploitation of homebased outworkers in the Australian clothing industry.

Since Australia's tariff reductions, a significant proportion of Australian companies have 'solved' the problem of competing with countries with low wage structures by shifting their production to those same countries. The companies continuing to manufacture in Australia have by and large changed from factory based production to home-based outworkers, in an attempt to cut labour costs. Regardless of whether the intention has been to avoid their legal obligations as employers, the subcontracting process has resulted in widespread non-compliance with outworkers' legal entitlements.

Subcontracting is also a key feature of clothing production globally. Nike, a US company that also manufactures in Australia, for instance, relies on the work of 500,000 workers worldwide but none of these workers strictly speaking are employees of Nike. Nike handles the design and the marketing. The subcontractors do all the rest.