

The Race to the Bottom:

Exploitation of Workers in the Global Garment Industry

BY JUNYA YIMPRASERT AND PETTER HVEEM

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ABOUT THE AUTHORS:

JUNYA YIMPRASERT

Junya Yimprasert is Director of Thai Labour Campaign (TLC), based in Bangkok. She wrote part 1 and the first chapter of part 3.

PETTER HVEEM

Petter Hveem previously worked as an advisor for NCA's campaign to end exploitation of Burmese migrants in Mae Sot, Thailand. He is currently Director of Communications with Medicins sans Frontiers Norway. He wrote Part 2 and the second chapter of part 3.

Illustrations by: Karnt Na Karnt

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PART I

THE RACE TO THE BOTTOM

INTRODUCTION

"My friend is pregnant. When her employer found out, he was angry with her, and yelled at her, saying, "You don't even have enough to eat, how dare you get pregnant?" Another case was when my friend's child was sick, and she asked for leave to take her child to hospital. He said, "Will your child die if you do not take him to the hospital? I won't let you go. Finish your work!"

-A former Bed and Bath worker, interviewed December 2002

There are hundreds of examples of quotes similar to this one from garment industry workers, not just in Thailand, but throughout Asia. The workers are voicing their frustration with the inhuman suppression of their rights by employers. These workers, globally comprised of over 70-80% women, face lifelong hardship at the bottom of the global garment production chain to clothe the world in numerous brands and designs.

Understanding the race to the bottom requires that governments, trade unions and labour advocates of the global South face the reality that they are competing amongst themselves just as much as, or to a greater extent than they are competing with the North [Chan and Ross, 2003] in their efforts to attract trade and investment. In this process of the race to the bottom, developing countries adopt neo-liberal policies to attract FDI and therefore trade off citizen's rights to investors or capitalists to be able to get the highest profit by paying the minimum for all costs, taxes, labour wages and welfare while carrying out practises harmful to the environment. Various reports refer to the race to the bottom, for example "economic competition encourages deregulation. This would cause the state to lose its redistribution role and its capacity to offer services to citizens, since taxation revenues would decline."¹

The International Textile Garment Leather Workers Federation (ITGLWF), the largest global union of textile and garment workers, issued a strong statement to the business community at the World Economic Forum: "As the corporate bosses proclaimed their commitment to workers and communities, it was hard to forget the 32 workers recently fired at Square Fashion Ltd. Bangladesh for simply seeking advice from a trade union on how to get paid on time, or the 400 migrant workers deported from Namibia after having been in the country for only one month, after tensions over horrific living and working conditions erupted into riots.

And what about the trade union president at Bata Ceylon Ltd., kicked out of the factory for voicing concern at the alleged mismanagement of the employees' provident fund? Why did the image of a young woman union leader in the Dominican Republic who has had her arm broken by company-hired thugs keep coming to mind, or the murdered Cambodian garment union leader, Chea Vichea?"

At the World Economic Forum in Davos, business building is a key issue, and corporations claim that they operate Corporate Social Responsibility (CSR). The ITGLWF went on to state: "In Davos, company presidents, CEOs, and managing directors were falling over themselves to highlight the productivity, quality and profitability gains to be made from being good employers. But, how real was it all?"

Monitoring these trans-national corporations' (TNCs) bottom end production in countries such as Thailand, one can see the difference. "I used to work in Bangkok [in a unionised factory] earning 250 Baht a day," says Pu. After the factory closed in 2000, without paying compensation to the over 1000 workers, she returned to her home in Kabinburi to work in a factory promoted by the Board of Investment (BOI) producing garments for export. "I received only the minimum wage with no welfare and there is no union". Pu is now earning 40% less than at her former job in the Bangkok factory.

The AFL-CIO and many organisations in the US issued a statement on the Principles of Unity on Trade & Investment, claiming that "Millions of people across this country and around the world have lost jobs, been poisoned, watched their farms foreclosed and suffered other indignities from corporate globalisation."

Susan George's statement emphasises the serious nature of the situation:

¹ Francis Bedros, NAFTA, <http://dfait-maeci.gc.ca/mafta-alena/bedros-en.asp>, last update 14/7/2004

“Globalisation inevitably transfers wealth from the poor to the rich and increases inequalities both within and between nations; globalisation shifts sovereignty from more or less democratic States to non-elected, non-transparent, non-accountable entities which consider democracy irrelevant and an obstacle to economic efficiency. Globalisation generates far more losers than winners.”

The textile and clothing industry is in fact an important industry for most developing countries, particularly in Asia. Of the total world textile and clothing exports, 42 per cent comes from Asia.² And among the world’s low-income economies, over 20 countries rely on earnings from the textile and clothing industry; Cambodia for instance earns 97 per cent of its export revenues from the textile and clothing industry.³ This does not mean, however, that the industry’s investors can exploit vulnerable people and their needs without giving workers worldwide full legal rights and respect.

1. A RACE TO SWEATSHOPS

“A sweatshop is a workplace that violates the law and where workers are subject to: extreme exploitation, including the absence of a living wage or long working hours, poor working conditions, such as health and safety hazards, arbitrary discipline, such as verbal or physical abuse, or fear and intimidation when they speak out, organise, or attempt to form a union.” (Sweatshop Watch)

Struggles against sweatshop conditions have been seen throughout industrial history, especially since the beginning of the nineteenth century when immigrants from Europe fled to the United States in the hope of a better life. They ended up working in exploitative and brutal sweatshop conditions and thus began to organise themselves to fight against these abusive working conditions, especially in the garment and textiles industries. “Millions of mostly Italian and Jewish immigrants provided cheap labour for garment ‘sweatshops’ in major cities where workers toiled for long hours under inhuman conditions for meager wages.”⁴

1.1 PRECARIOUS EMPLOYMENT

The Clothing industry is big business: the world’s consumers spent around US\$ 1 trillion buying clothes in 2000, with around one third of sales in western Europe, one third in North America, and one quarter in Asia.⁵

But what is left for the workers? Little. The clothing industry is labour intensive, meaning that it is an industry that cannot replace workers with robots. However, companies often treat workers as if they were robots. “The problem now is that the management sees that we cannot reach the target if we stitch sitting down, so they have set up a new system by which we feed cloth faster standing up. We have to stand to stitch. This causes a lot of muscle pain.” This worker said that the management, which has a factory in China, told the Thai workers that workers in China stand to stitch without complaining. Through such precarious employment this “longer, faster and cheaper”⁶ industry can make workers to become more like robots.

The International Textile, Garment, and Leather Workers Federation (ITGLWF), the largest global union of textile and garment workers, issued a strong statement at both the World Trade Organization and the World Economic Forum, expressing the seriousness of the problem that workers in this industry face, and are going to face under the WTO trade rules:

“From the 130 textile and clothing producing countries in the developing world today, it is expected that only about twenty will be able to maintain a viable textile and clothing sector. Those industries likely to be eliminated are some of the

² Thai Textile Institute, The Project for Developing the Master Plan for Industries: the Textile and Clothing, 2002, Page vi

³ Interview: Mark Lavenson, UNITE, USA

⁴ History of UNITE, the Garment and Textile workers union in the United States, which includes a detailed history of workers’ organisation since 1880-1900. More details at <http://www.unitehere.org/about/historyunite.asp>

⁵ Oxfam: Stop trading away our rights, p49.

⁶ Term used in Play Fair at the Olympics report, more details can be downloaded at www.fairolympics.org

poorest countries in the world. In most of these there is no alternative employment, no social security, no safety nets. Where are these young workers, mainly women, going to end up??

However, what is happening should come as no surprise. These are countries that build export-based economies on the back of low wages and appalling working conditions in keeping with the liberalisation agenda. Profits are not reinvested neither in the industries nor the countries concerned.⁸

The statement by the ITGLWF reflects the fear and confusion that workers in these sectors all over the world currently experience, including workers in sunrise production countries like India and China.

1.2 THE GLOBALISATION OF GARMENT PRODUCTION

The textile and garment industries are historically known for initiating the race to the bottom. By the end of the 1970's the Multi-Fibre Arrangement (MFA) was implemented, allowing quota-based market access to rich countries for producers from a select number of developing countries. The world saw a massive relocation of industry away from the US and EU, and moving in every direction to Central America, Africa, East Asia, South Asia, and Eastern Europe.

The quest for cheap labour has been the so-called 'simple explanation' of this relocation to the bottom. The other main attraction of relocation was that the Multi-Fibre Arrangement (MFA) promised investors quota privileges in the biggest importing countries, the EU, US, Canada.

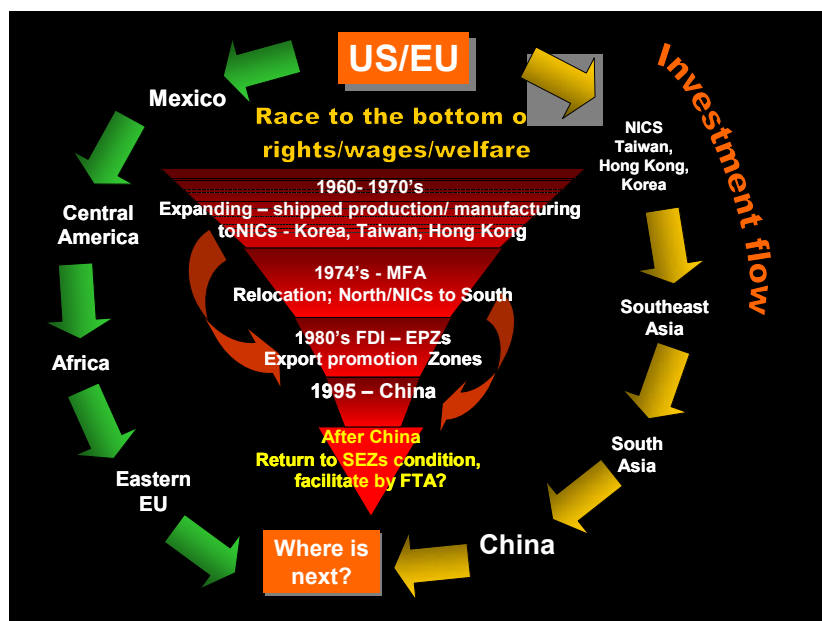


Fig. 1.2 Cycle of investment flows and the race to the bottom in rights/wages/welfare (Junya Yimprasert).

"Since 1975, investors from Taiwan and Hong Kong started to relocate their production base to Thailand as they were motivated by the quota system granted to developing countries. However, the relocation of production into Thailand during the period from 1980-1989 was a result of the rise in wages as well as in the value of local currency (currency appreciation)."⁹

⁷ The International Textile, Garment and Leather Workers Federation is an International Trade Secretariat bringing together 217 affiliated organisations in 110 countries, with a combined membership of over 10 million workers.

⁸ ITGLWF, Press Release, The WTO's Ten Wasted Years, 1/2/2005

⁹ Supatch Supachalasai, Ph.D., The Possibilities of Export and the Impact of the ASEAN Free Trade Areas (Textile Industry), Thai Development Research Institute, November 1996, p 2

The textile trade GSP system¹⁰ has been extended four times between 1961 and 1994¹¹ when the WTO was formed, and the MFA was a big issue at WTO negotiations. What resulted was the phase-out period under the Agreement on Textile and Clothing (ATC), agreed for January 1995-31 December 2004 (see chapter 2).

As garment and textile production shifted out of the US and Europe from the early 70's and onwards, the Northern brands selling the products to the consumers were moving away from owning factories themselves, and came to rely on 'outsourcing' production: contracting out the production of their garments to local industrialists. A first generation of race to the bottom countries was formed, helping to transform the economies of newly industrialising countries (NICs, for example Hong Kong, Singapore, Taiwan, and Korea). Over the past decades, NIC investors are becoming the most important suppliers of textiles and clothing to the world.

The largest suppliers in the textile, garment and footwear industries are Taiwanese and Hong Kong business groups. They build their factories around the world in Latin and Central America, Africa, and many countries in Asia to subcontract their orders to feed the global brands.

Angela Hale from Women Working Worldwide reported that the massive relocation of the garment industry is made possible by: "...improved transport and communications. Computer technology now means that information, designs and orders can be communicated around the world twenty-four hours a day ... and trade liberalisation. The changing rules of world trade mean that countries are increasing production for export rather than domestic consumption. In the case of garments this has been restricted by the MFA, but this, itself, is now being phased out."¹²

Besides, the NIC investors are also joining the competition with their customers, the brands, because while supplying brands, they are also introducing their own brands to take a share of the Asian market, and they are successful in bringing Asian brands with lower prices to Asian consumers, including such brands as Giordano, Camel, AllZ, Mizuno, Pan, and so on.

By 2000, most clothing products sold in the US were produced elsewhere in the world. For Wal-Mart products sold across the US, the AFL-CIO reported that they were produced in 48 countries.

The globalisation of the garment industry has meant that the brands themselves have shifted their efforts away from concerning themselves with production, and instead towards branding and marketing. Production is outsourced, and dealt with through supply side management:

- Corporation stops direct investment in manufacturing.
- Outsources / contracts out production through agents.
- Rely on 'one stop service': big agents with networking to hundreds or thousands (see case on Li & Fung below) of factories worldwide. Agents have no direct link or responsibilities to workers.
- The agent is the key player in the new trading rules of globalisation.

¹⁰ Short-term Arrangement Regarding International Trade in Cotton Textiles (STA), 1 October 1961-30 September 1962. Long-term Arrangement Regarding International Trade in Cotton Textiles (LTA, 1 October 1962 to 1970 [extended 2 times]. The Multi-Fibre Arrangement (MFA), 1 January 1974- 1995 and Agreement on Textile and Clothing (ATC) 1 January 2000. From International Textiles and Clothing Bureau [ITCB]. More information on www.itcb.org/Documents/itcb-mi1.pdf

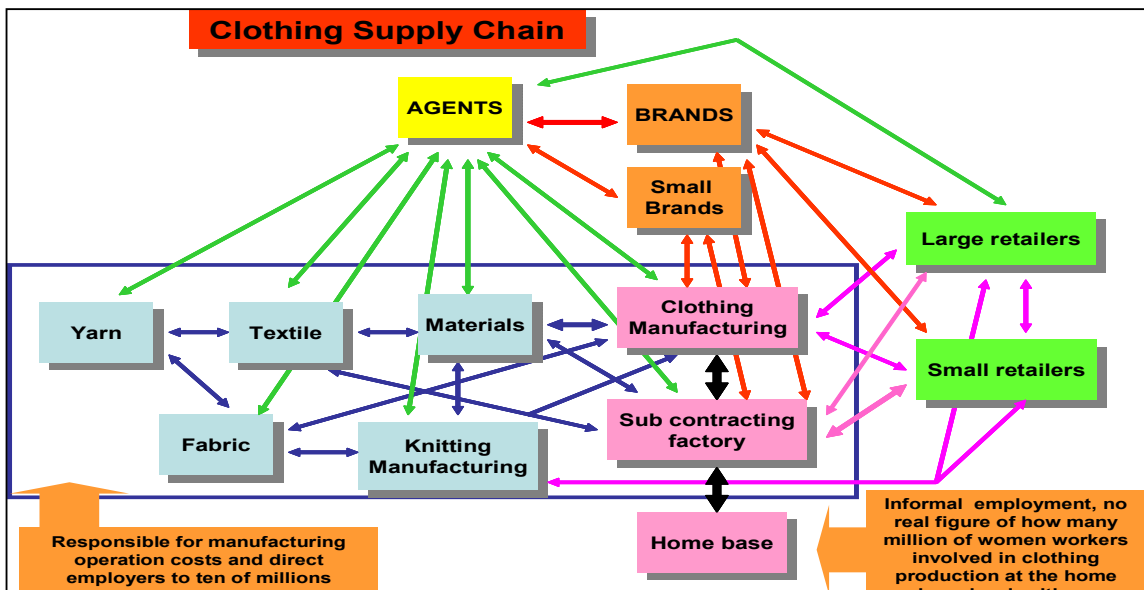
¹¹ Werachai Pianpermpath, Textile Trade Department, Ministry of Commerce, presentation to the Thai Textile, Garment and Lethers Federation, Bangkok 22 January 2005

¹² Angela Hale, http://www.poptel.org.uk/women-ww/international_subcontracting.htm, March 2000

Wal-Mart

- As the world's largest company with sales of \$256 billion last year, Wal-Mart exerts a strong downward pressure on wages, and not only for its own workers. Its sheer size and buying power gives it the ability to influence wage rates of its competitors and suppliers, including manufacturing and construction companies.
- Wal-Mart pressures its suppliers through a policy that says the price Wal-Mart will pay and will charge shoppers must drop each year for basic products that don't change. To survive in the face of the retail giant's pricing demands, suppliers have had to lay off employees and close U.S. plants in favour of outsourcing products from overseas.
- Wal-Mart is the single largest importer of foreign produced goods in the United States, and the majority of its private label clothing is manufactured in at least 48 countries around the world — and almost none in the United States.

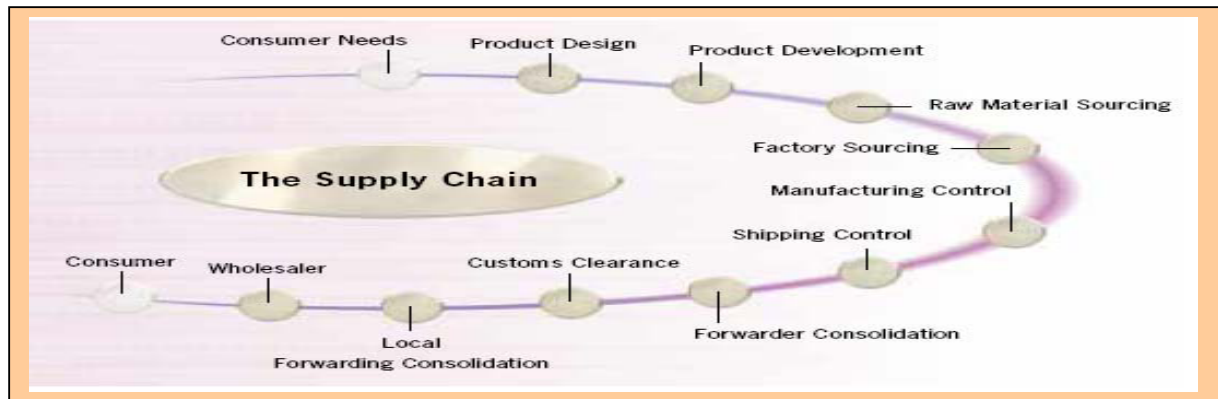
Source: AFL-CIO, www.aflcio.org



1.3 AGENTS: THE NEW POWERHOUSES

Li & Fung is the biggest clothing agent in the world, with gross profits of nearly US\$ 600 million in 2003, an increase of 13% from 2002.¹³ This makes Li & Fung a leading model of supply chain management. Administrative tasks are transferred from the corporation, including design, manufacturing and shipment to the retailers from the agent. Neither brand corporations nor agents need to have their own manufacturing plants.

¹³ Li&Fung, annual report, 2003, www.lifung.com



The agents' business pattern is to maintain relationships with manufacturers all over the world where they can place orders any time, for certain amounts and within a 'just in time' production period, which can be only 45 – 60 days (down from 90 –120 days in the past).

Li & Fung's business is to administer the supply chain. "If we receive an order from one retailer in Europe for ten thousand items, it is not easy for our office in Korea to outsource products in the country nor easy for our office in Indonesia to outsource to local manufacturers. For this kind of customer, we might have to buy fibre from a Korean factory, then dye and weave in Taiwan; thus, we must select fibre and then send it to Taiwan. A Japanese company, YKK, have the best zip and button, but it's manufactured in China. So we go to YKK to order directly from factories in China. Then we consider the quota system and labour situation, so we decide that the final garment should be produced in Thailand, so we send all the materials to Thailand. Since our customers need on-time delivery, we divide orders among five Thai factories.... Within five weeks after receiving the order, 10,000 clothing items reach stores or shops in Europe. All the clothes are the same quality and the material seems like it's from only one factory. This is a new type of value added. It is a real production of the world that we have never seen before. The brand tag says 'Made in Thailand' but they're not Thai products.¹⁴

Li & Fung supply chain management (see above):

"As a Supply Chain Manager across many producers and countries, Li & Fung provides the convenience of a one-stop shop for customers through a Total Value-Added Package: from product design and development, through raw material and factory sourcing, production planning and management, quality assurance and export documentation to shipping consolidation."¹⁵

The idea of Li & Fung clarifies the capitalist viewpoint of supply chain management without direct investment. "Our target is to deal with a factory and make it produce

30–70 per cent of the whole factory's capacity. We do not want to be an important part of the factory. Just 30 per cent can make us the biggest customer of the factory. Another aspect we need is flexibility so we need not to have any factory depend only on us. We also gain interest from the factory if it has other customers."¹⁶ "If Li & Fung does not own a factory, how can we say that we are in the production line? Actually, we are part of the production line because in 15 stages of the process of the value chain, we have been involved in 10 stages."¹⁷

¹⁴ Supply Chain Management: Hong Kong Style, Harvard Business Review, Sept – October 1998

¹⁵ Li & Fung, about, <http://www.lifung.com/about/index.html>

¹⁶ Supply Chain Management: Hong Kong Style, Harvard Business Review, Sept – October 1998

¹⁷ Ibid

1.4 SQUEEZE AND SUBCONTRACTING AT THE BOTTOM END

“Before I owned a garment business, I used to be a hairdresser. My earnings as a hairdresser were enough for my little child but when my child grew up I tried to go into the clothes sewing business. My mum had sewn clothes, I learned this business from her, then I invested but I lost money every month in the beginning.”

- A subcontractor of the Bed & Bath Workers Cooperative

Whereas agents like Li & Fung might be in a competitive business, and certainly need to deliver quality at good price to their brand customers, the number of agents is limited. Its success strategy is to become indispensable for the brands, but remain independent of individual factories. By retaining own bargaining freedom vis-à-vis subcontractors, the agent remains competitive. Consequently, the price for stiffer competition is paid further down in the supply chain, at factory level.

Mr. Chaiyapong, president of the Liberty Group that produces adult wear for world famous sportswear and casual wear brand names says, “Today our profit is ten per cent. But I expect that in the future profit will lessen to five per cent. If we want more profit, we must increase our sales by extending our capacity. We are expanding our factory to produce high quality products because customers not only consider the price but also the stability and credibility of suppliers. In ordering raw materials, we use the ‘just in time’ system too. Seventy per cent of materials are foreign and thirty percent are domestic. Foreign materials mostly come from China, Taiwan and Europe.”¹⁸

Subcontractors are always at risk. Everyone interviewed stated that they have no bargaining power on price; in fact they get a very low price. Even a company producing for brand name products mentioned, “Previously, we bargained for a higher price. Today, customers walk into our factory and seem like the owner since they order us to do many things.” (Grandeur Garment Company).¹⁹

The Bed and Bath Company²⁰ in Thailand is an example of the way in which manufacturers are squeezed, and consequently feel compelled to exploit their workers. The 900 workers in Bed and Bath factories were forced to work around the clock to meet the management deadline of shipment, producing for more than 60 brands in a month. While subcontracted to produce for many global leading brands (such as Adidas, Reebok, Fila, Umbro and university logos), workers were threatened with a variety of firing methods if they organised into unions.

The company even put concentrated methamphetamines in the drinking water to make workers cope with 24-hour shifts.

Moreover, the company subcontracted parts of their deliveries to around 40 different subcontractors, of which 8 were located in the border town of Mae Sot. Here Burmese home workers were hired well below the minimum wage.

¹⁸ Ibid, p. 43

¹⁹ Ibid, p. 56

²⁰ Full details of the Bed and Bath workers cases is on Thai Labour Campaign’s website: www.thailabour.org



Fig. 1.4 Some of the examples of logos produced by the Bed and Bath factory in Thailand, with 900 workers producing for over 60 brands in just three months.

Formal contractors increasingly transfer and outsource their contracts to other even cheaper manufacturers, often across borders. The triangular borders of Thailand, Burma, and China have been used as a channel for the smuggling of unfinished clothes from China to Thailand. Many newspapers in Thailand report the increasing frequency of unfinished clothing products entering Thailand from China to finish in Thailand with the logo "Made in Thailand," and export to overseas markets.²¹ Typically, the company registers under a Thai name, but the Thais are only employed and paid a percentage of the profit, while the real

beneficiaries are Chinese investors. The massive profits made by clothing corporations are due to relocation and transfer of the risks down the chain of production.

Ms Tinna Boonsungnerm

One of the Bed & Bath workers who continue to struggle for justice at the Ministry of Labour. She is seven months pregnant.

"I am a daily wage worker in the sewing section. I earn 170 Baht a day. I am currently 7 months pregnant and my child is due in December. When I was 5 months pregnant and still working in the factory I got sick. The doctor told me to stop working for 15 days and the company paid me my full wage. I continued to be ill and needed a second 15 days' sick leave. During this time the company only paid wages for four of these days. I am a good and loyal worker and I never previously had to leave my job. However, when I was legitimately sick and needed 30 days sick leave, the company would not pay me as they should have.

Since the factory closure on October 10 we have faced many problems. For me, it has been especially difficult. I do not have enough money to live. Having a baby brings much more expenses than if I was alone. In this struggle our budget is small. We workers can only eat twice a day: at 10 a.m. and at 4 p.m. So very early every morning I must buy rice soup because I am so hungry and must nourish my unborn child.

I don't know how to get enough money when the birth of my child is so soon. I must take all responsibility for this child. My husband has left me and I am unemployed. I beg the employer to solve this unjust labour situation. Everyone here, all of these workers are unemployed and are suffering because of one person who has not met his moral and legal responsibilities."

Source: Thai Labour Campaign

case of China, this class comprises over 40 million people.²³

1.5 Relocation to capture new consumer markets

Chinese people dress in their baggiest jeans to sit in Starbucks, which has now opened 100 outlets and plans hundreds more. China's biggest seller of athletic shoes, Li Ning, recently surrendered its top position to Nike, even though Nike's shoes — upwards of \$100 a pair — cost twice as much. The new middle class "seeks Western culture", says Zhang Wanli, a social scientist at the Chinese Academy of Social Sciences. "Nike was smart because it didn't enter China selling usefulness, but selling status."

Zhang hadn't yet been born when Nike founder Phil Knight first travelled to China in 1980, before Beijing could even ship to U.S. ports; the country was just emerging from the turmoil of the Cultural Revolution. By the mid 80s, Knight had moved much of his production to China from South Korea and Taiwan. But he saw China as more than a workshop. "There are 2 billion feet out there," former Nike executives recall him saying. "Go get them!"²²

Clearly the relocation of garment production is motivated largely by ever cheaper production costs caused by fierce competition between producers in the South, i.e. flexible and cheap labour, trade procurement and infrastructure facilities of the EPZ model, import tax and tariff exemption, cheap shipment and transport. But it is also motivated by the scramble to capture local 'middle class' consumers. In the

²¹ Bangkok Business Newspaper, <http://www.bangkokbizweek.com/20041103/cover/index.php?news=column15446943.html>, 19 November 2004

²² More information on the situation of China garment workers can be found at the China Labor Watch, http://www.chinalaborwatch.org/en/web/article.php?article_id=50214

²³ Matthew Forney, How Nike Figured Out China, Time online edition, <http://www.time.com/time/globalbusiness/article/0,9171,725113-2,00, November 2004>

So, producing in China is not just about cheap labour, it's also about new customers. Many brands look towards the emerging middle class in China. As a result, Nike sales in China "rose 66% last year, to an estimated US\$ 300 million, and Nike is opening an average of 1.5 new stores a day in China."²⁴ This is also true for other brands. "Gucci showed an increase of 58.6 per cent in mainland China. Louis Vuitton's Yves Carcelle says that the company "has never had a yearly growth of under 50 per cent" since it pioneered China in 1992. Chinese customers for Vuitton are now ranked as joint third in the world."²⁵

Behindthelabel, a website of UNITE HERE, the workers union in the US, shows that US workers are facing serious management-led anti-union campaigns, threatening unionised workers with relocation. 'Relocation' is the magic word used by management all over the world to successfully pressure workers to 'shut their mouths'. Workers in Mexico, US and Central America were threatened by China's massive, obedient, cheap and endless supply of labour; this was echoed to workers in Macedonia, Turkey, India, Sri Lanka, Bangladesh, Indonesia, Thailand, Cambodia, and Philippines, etc.

But the workers in China, supposedly 'the beneficiaries' of this threat, are also threatened: If they speak out, the company will be shut down and move to Vietnam. Meanwhile, workers in Vietnam are told that the company will move to China if they make too much noise.

1.6 AND THE WINNERS ARE...

A worker in Thailand would have to work for 23,942 years to earn the annual income of Philip Marineau of Levi Strauss. A worker in China would have to work for 33,653 years to earn Tommy Hilfiger's annual salary. A worker in Cambodia would have to work for 6,773 years to earn what Nike's Phil Knight earns in just one year.

CEO	Company	Annual Salary	Hourly Wage
Philip Marineau	Levi Strauss & Co.	\$24.9 million	\$11,971
Tommy Hilfiger	Tommy Hilfiger Corp.	\$22.4 million	\$10,769
Ralph Lauren	Polo Ralph Lauren	\$4.5 million	\$2,163
Paul Charron	Liz Claiborne Inc.	\$3.12 million	\$1,500
Paul Fireman	Reebok	\$3.1 million	\$1,490
Phil Knight	Nike	\$2.73 million	\$1,312

Salaries for apparel executives

²⁴ Ibid

²⁵ Suzy Menkes, China: Promised land or pie in the sky? International Herald Tribune, December 1, 2004

Workers	CEOs	Workers annual salary	Hourly wage	Years to earn the executives' salary
Thailand	Levi Strauss & Co.	\$1,248	\$0.5	23,942
China	Tommy Hilfiger	\$786	\$0.32	33,653
Philippines	Polo Ralph Lauren	\$1,416	\$0.63	3,433
India	Liz Claiborne Inc.	\$540	\$0.22	6,818
Cambodia	Reebok	\$540	\$0.22	6,773
Indonesia	Nike	\$600	\$0.24	5,467

Comparison of executives' and workers' salaries²⁶

1.7 AND THE LOSERS ARE...

"I would define globalisation as the freedom for my group of companies to invest where it wants when it wants, to produce what it wants, to buy and sell where it wants, and support the fewest restrictions possible coming from labour laws and social conventions." Percy Barnevik, president, ABB Industrial Group²⁷

Exporting countries, mostly developing countries, claim the reason for Foreign Direct Investment (FDI) promotion and facilitation to bring in trade and investment, particularly in manufacturing, is for 'job creation'. The ITGLWF statement to the WTO states that: "In the ten years since the WTO's creation, trade has expanded, yes, but, not uniformly. Industrialised countries and a group of twelve developing countries accounted for the lion's share of this growth. Most developing countries have seen no significant trade expansion. Indeed, most LDCs experienced a decline in their share of world markets in spite of adopting trade liberalisation measures."²⁸ Thus, the losers in the globalisation of the garment industry are workers in both North and South.

Workers in the North

The AFL-CIO reported that since April 1998, 2.4 million well-paying jobs in manufacturing have disappeared, accounting for 90 per cent of jobs lost since the recession began. Unionised positions, which in 1981 accounted for some 27% of all manufacturing jobs, shrank to 15% by 2001.

The wages of workers rose significantly during the 1990s, but average hourly earnings are still below what they were back in 1973, when adjusted for inflation.²⁹

The study by the joint project between Knitwear, Footwear and Apparel Trades Union (KFAT), The National Group on Homeworking (NGH), and Women Working Worldwide (WWW), which looks at garment workers in the UK, shows that 3,092 jobs had been lost at 26 sites in a six month period. Two garment manufacturers, Courtaulds and Coats Viyella, were responsible for 75% of all redundancies in the Nottinghamshire and Derbyshire regions. Most of the work lost by companies in the area was going to companies outside the UK. Most work had been relocated to Sri Lanka, closely

²⁶ Sweatshop Watch, <http://www.sweatshopwatch.org/swatch/questions/>

²⁷ Gerard Greenfield, The Success of Being Dangerous: Resisting Free Trade & Investment Regimes, <HTTP://WWW.FOCUSWEB.ORG/PUBLICATIONS/2000/THE%20SUCCESS%20OF%20BEING%20DANGER> OUS.HTM

²⁸ ITGLWF, WTO Ten Wasted Years, ITGLWF, 2005

²⁹ AFL-CIO, www.aflcio.org, tool for activists, download at http://www.aflcio.org/yourjobeconomy/todayseconomy/manuf_jobs.cfm

AFL-CIO

- Unionized manufacturing jobs have been hit especially hard, falling from 28 percent of all manufacturing jobs in 1983 to only 14 percent in 2002.
- In real-dollar terms, the U.S. goods trade deficit is 13 times greater than in 1980. The trade deficit in goods grew to an estimated record \$529 billion in 2003, or \$1.45 billion a day. From 1994 to 2000, the trade deficit cost 3 million job opportunities, 2 million in manufacturing. It accounts for at least 40 percent of the decline in real wages since the 1970s.

followed by China. Other significant countries were Morocco, Poland and Hong Kong. Marks and Spencer's decision to source more products from outside the UK was considered to have been the major influence on job losses in the area.³⁰

While 'sunset phase' retrenchment in US and EU industries causes massive suffering for workers in these countries, workers in the 'sunrise economies' of this sector are not enjoying the sunrise. Their wages and living standards are often much lower than minimum human living standards, with no welfare, benefits or unemployment protection, as well as no trade union rights.

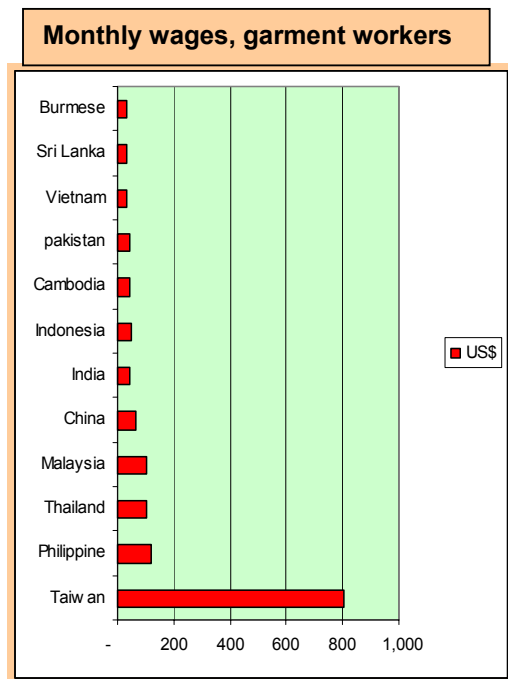
Workers in the South

There are massive numbers of workers throughout the world at the bottom of the chain of relocation, working and living in poor conditions, earning starving wages. Workers in the South have

to work long hours to earn extra overtime payment, and many are domestic migrants that have had to leave their child behind with family or relatives, with insufficient welfare and protection to workers and families.

Most workers do not have union membership. Heavy union-busting by the manufacturing sector and government are common; to guarantee the flow of investment and trade, workers' quietness and their surrender to exploitative practices are seen as a requirement. By not enforcing the law, minimum wages and welfare arrangements are detracted from. Workers in the South are suffering from poor working conditions and standards of living.

Average wages in apparel industry in Asia³¹



³⁰ More detail of the study can be download at http://www.labourbehindthelabel.org/publications/clothing_report.htm

³¹ This wage chart is collected from the Asian Transnational Corporation Mornitoring Network members, and a labour advocate organisation, Labour Resources Center – Malaysia; author's direct interview – Vietnam

Whether China or India is capturing most garment contracts seems irrelevant from a social point of view: nowhere are workers properly paid or socially protected.

This comparison of wages in Asian countries shows that wages do not greatly differ. Real difference is found as regards freedom of expression and association, with China, Vietnam and Burma being at the bottom.

1.8 MINIMUM WAGES ARE STARVING WAGES

It is relative to the size and value of global garment production that wages levels are shocking. Workers interviewed in unionised factories in Thailand making famous brand T-shirts say they produce 20-50 jackets, T-shirts, or bras per day. They get approximately 0.4-0.5% of the total retail value of the T-shirts they have made. This, in a unionised factory where workers usually earn higher than the minimum wage. For Burmese migrant workers in the Mae Sot earning only one third of the minimum wage, the relative share is terrifying to think about.

Meanwhile, it must be remembered that even minimum wages normally are lower than living wages. The minimum wage in Thailand increased only 40 Baht between 1994 and 2004, while the currency exchange rate dropped 80 –100% from 25 Baht per Dollar to 39 – 50 Baht per Dollar since the economic crisis of 1997. However, the government of Thailand has claimed that the economy in Thailand has recovered with GDP increases of over 6% every year. It is also claimed that the Thai Stock Exchange has increased from over 200 to nearly 800, which is a 300% increase.

Thailand has been using minimum wages since 1972, by dividing the scale into three zones. However, since 2001, the wage scales have been proposed by the provincial minimum wage committees. Therefore, the wage scale will be divided into 8, 16, 14 and 15 scales in 2005. However, the gap between the highest-scale wages and the lowest-scale wages is also expanding and most of the provinces are closer to the lowest wages than the highest wages. The Special Economic Zones where there would be no unionised work force would make the minimum wage scale freeze.

In 2004, Thai workers' monthly salary was US\$ 91 –111 (US\$ 3.5 – 4.3 per day x 26 days = US\$ 91 – 112 per month). Yet the Thai government has refused to increase minimum wage to the level of Baht 200 that the Thai labour movement has been demanding. Instead, it has responded by increasing the minimum wage by just 1 Baht in 2004 and 5 Baht in 2005 (0.6% in 2004, and 2.9% in 2005).

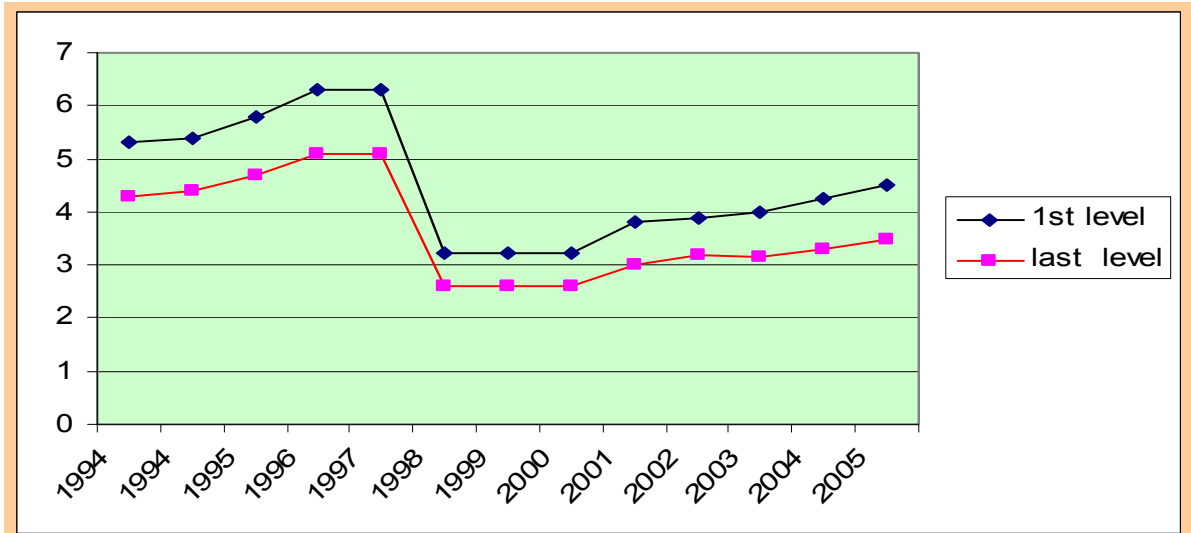
"Pepsi costs 10 Baht here, in Bangkok it is also 10 Baht. A plate of noodles is 20 Baht here, the same as 20 Baht in Bangkok. We pay the same price, but our wage is much lower. I have to think a lot just even to buy a Pepsi. The vision of my family emerges, so instead of drinking Pepsi, I just have to use that for food, and save as much as possible for the family."

- Samai Kongtalei, dismissed union president from a Nike-producing factory in Korat.

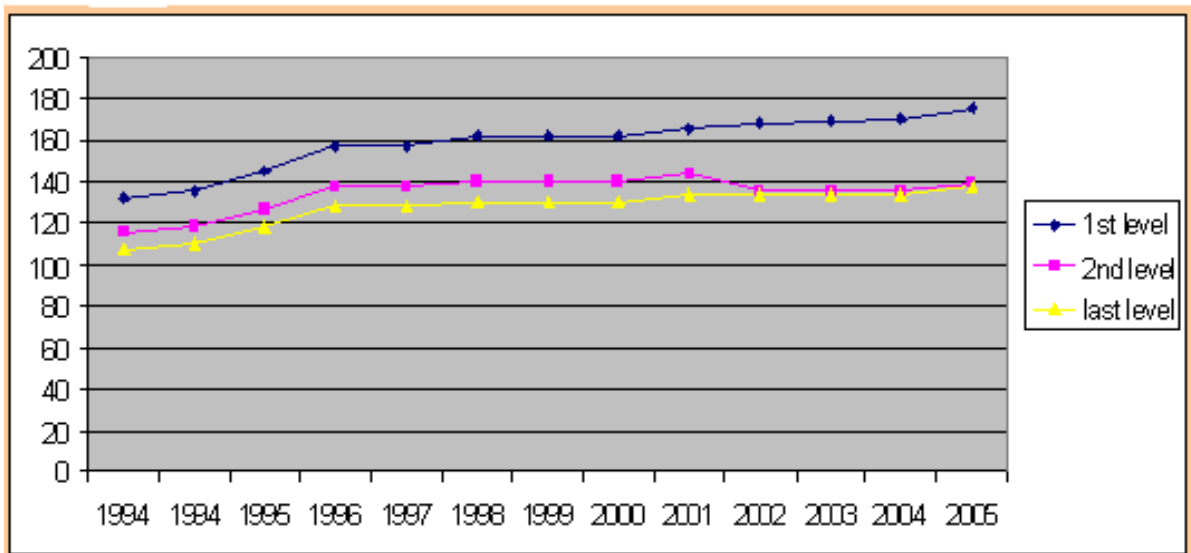
This total wage just covers basic expenses, such as a plate of rice, a coffee a day, accommodation costs and transport to work for a worker, which together totals 90% of the 2004 minimum wage in that area which is 145 Baht/day = 3,770 Baht/month (26 working days).

The government promotes the relocation of industries to the countryside, especially along neighbouring borders, in order to stop migration to Bangkok and to create jobs in the provinces. But the incentive is nearly a Dollar lower wage per day.

To enjoy a comfortable lifestyle is out of reach for those workers at the bottom of the clothing production chain around the world. What the industries have introduced is that the minority middle class in each country now works in management, amounting to not more than 10% of the entire workforce.



Wage scale in Thailand from 1993 – 2004³²



Minimum wage scale in Thailand 1994-2004 in US\$

³² Ministry of Labour, minimum wage, download from www.labour.co.th

2. CONSEQUENCES OF FREE TRADE

2.1 FROM MFA TO FREE TRADE AGREEMENTS

*"Textile and apparel industries are vital parts of the world economy, providing employment to tens of millions of mostly women workers in nearly 200 countries. For the past 30 years, a complex quota system has governed global textile and apparel trade, valued at US\$ 344 billion in 2001. The elimination of this quota system in 2005 portends disaster for garment workers in the US and worldwide, as 'free trade' in textiles and apparel will cause massive job losses in many countries and accelerate the 'race to the bottom' in wages and working conditions."*³³

*"Often trade growth has not been sustainable. Again, a good example is the textile and clothing sector. The beginning of 2005 saw the end of the Multi-Fibre Arrangement and the advent of trade liberalisation in the sector. As a direct result, Bangladesh is expected to lose one million of the 1.8 million jobs in its garment industry. Indonesia will probably lose one million jobs, and Sri Lanka is set to see 300,000 of 350,000 people employed in its clothing industry thrown out of work. Not much sustainability in these figures!"*³⁴

The World Trade Organization's rules and regulations aim to create a single global market for trade and investment, under the same 'one size fits all' regulation.

In garments and textiles, the WTO has decided to end the Multi-Fibre Arrangement (MFA) which has been used since 1974. The MFA was designed to shield western industry from free trade competition. But the agreement led to the creation of import quotas reserved for some of the poorer developing countries, and these privileges led to the creation of manufacturing industries in many of these countries. On balance, the MFA might have been detrimental to developing countries' interests.

The quotas, together with high tariff charges, cost developing countries US\$ 40 billion a year and 27 million lost jobs. Oxfam's Make Trade Fair campaign head Phil Bloomer said: "The MFA was one of the most pernicious weapons in the rich world's arsenal of protections. For every job it protected in the rich world, 35 jobs were lost in the developing world. This industry is vital for poor countries. It employs more than 30 million people, most of them women, and MFA reform was to give them a fair chance of trading their way out of poverty. The rich world must not be allowed to renege on the spirit of the deal made to scrap it."³⁵

But the privileges created for some of the poorer developing countries will also be lost as the MFA is suspended and free trade for all takes over. This effect is doubly compounded by China's accession to the WTO. The most common concern is that countries such as Bangladesh and Sri Lanka stand to lose their market shares as countries such as India and China gain 'most favoured nation' treatment in rich markets. Free trade in textile and garments will harm what remains of rich countries' apparel industries, and also have serious consequences for the poorer developing countries that benefited from the MFA.

Since 2000, unions and labour advocates have carried out a number of studies in the US and Europe and have raised concerns over jobs lost to China and India. A Boston news report found that, "The U.S. Labor Department forecasts the U.S. apparel industry will shrink by 69 per cent – or some 245,000 jobs – between 2002 and 2012 due largely to increased competition from China when the quota system expires. U.S. textile industry employment will fall by 31 per cent – or about 152,000 jobs."³⁶

The situation in Europe is very much the same as in the US. The UK, which has been facing a decline in the industry, finds that: "Increasingly, members of the UK's 195,000-strong textiles workforce are finding jobs in companies at the top end of the market." The UK's BBC interviewed Peter Booth of the Transport and General Workers Union who said:

³³ Lora Jo Foo and Nikki Fortunato Bas, Free Trade's Looming Threat To The World's Garment Workers, Asian Labour Update, AMRC, December 2004

³⁴ ITGLWF statement, The WTO's Ten Wasted Years, 1 February 2005, download from, www.itglwf.org

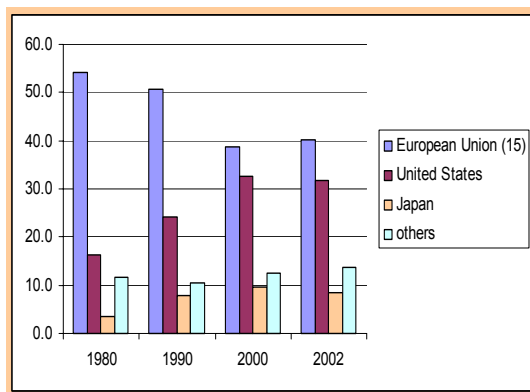
³⁵ Oxfam press release, 6 May 2004 Oxfam warns against "back-sliding" by rich countries to protect clothing industries

³⁶ Doug Palmer, http://www.boston.com/business/articles/2004/10/23/city_of_looms_fears_for_its_future/, October 23, 2004

"We've seen hundreds of thousands of jobs shed here in the UK as the retailers have moved systematically to the lowest-cost producing areas. Our concern was for the terms and conditions of workers worldwide because this was a process of global exploitation in the guise of free trade. Whether or not you call it exploitation, it is clear that there will be people who lose from the changes sweeping through the textile and clothing world. But some will gain – businesses in China and India."³⁷

But the perspectives for many people in the global South, who make their living from the garment industry, are not encouraging. Badruddoza Nizam, General Secretary of Garments Tailors Workers' League (GTWL, Bangladesh, an affiliate of ITGLWF/TWARO) reports the following on the situation in Bangladesh: "The picture is just as grim in Bangladesh, where some 3,500 garment factories which employ 1.8 million workers, more than 80 per cent of them women, and brings in 75 per cent of the country's export earnings. Annisul Huq, president of the Bangladesh Garment Manufacturers and Exporters Association, fears a third of smaller factories will go bust, throwing 200,000 to 300,000 people out of work."

For Thailand, the Social Welfare Department estimated that 300,000 workers in the industry will be laid off. This is excluding workers employed in the subcontracting and home base sectors that are not included in the social welfare protection scheme. Therefore, the real figures of workers affected by the changing of industry may be doubled.



Leading importers of clothing 2002 (%), source WTO, statistic by sectors 2002

The US and the EU are the leading importers in the clothing industry. Therefore, any moves made by the US and EU in policy on the import of clothing have an impact on the industry. From 2005, when MFA no longer exists, and fearing a flood of clothing from China, the Generalised System of Preferences (GSP) is still granted by the main players like the US and the EU.

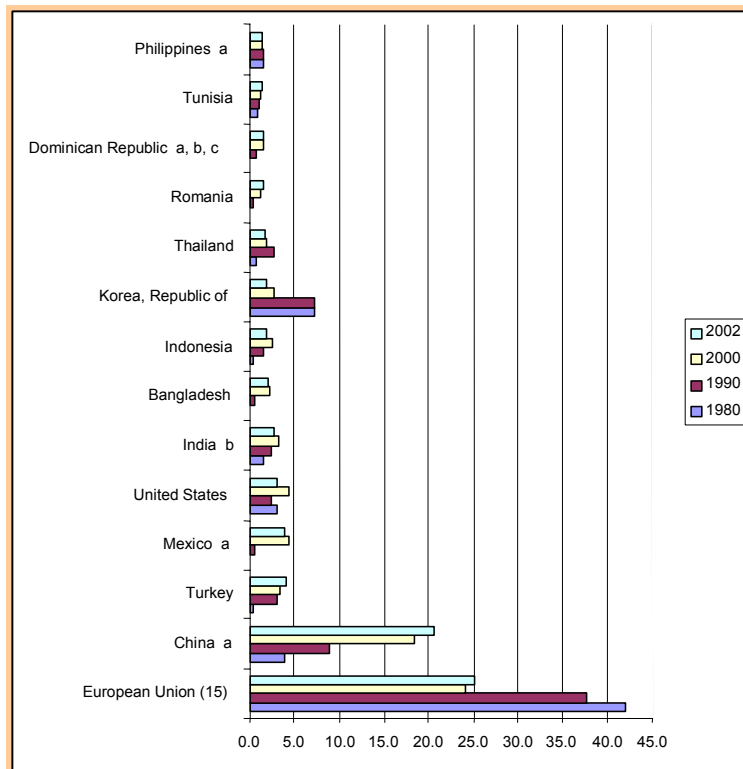
In addition, the US gives special privileges in entering the US market through Free Trade Agreements (FTA). The North American Free Trade Agreement (NAFTA) has been used as a model of FTAs that the US government has signed with many countries. For Thailand, one of the expected gains from the proposed FTA with the US is within the clothing industry.³⁸

The EU is moving toward making use of WTO 'rules of origin' and production standards as well as giving GSP to small production countries based on human rights, environment, labour and anti-drug standards.

The moves made by the US and EU after the quota system have been a new form of quotas, showing that both giant players can still control the industry. But whether they can control the corporations to implement international human rights and labour rights is the more relevant question.

³⁷ Andrew Walker, New look for global clothing industry, BBC UK, 30 December, 2004 download from, <http://news.bbc.co.uk/2/hi/business/4098305.stm>

³⁸ The US Government has increased the signing of Free Trade Agreements with many countries since the collapse of the WTO ministerials in Seattle and in Cancun. For Thailand, the clothing industry is considered to benefit, and in exchange for the Thai government's trade in clothing and textiles it would open the country to services industries, IT and intellectual property rights standards.



Leading Exporters of Clothing 2002, source WTO, report 2002

2.2 LABOUR LAW FLEXIBILITY UNDER FREE TRADE AGREEMENTS

Export Processing Zones: South – South governmental competition

*“FTZ is a tax-free zone aimed at encouraging more investment as well as improving Thailand’s competitive edge in the fierce global market of today.”*³⁹

With the rise and fall of EU and US industry, and its relocation to the South, the industry can keep high profits with the cheapest cost of production through trade facilitation and tax and tariff exemption, and flexibility of labour protection laws of developing governments.

The setting-up of “export processing zones” has been the main trade facilitation policy of the competitive South. “By 2002, 116 countries had set up around 3,000 export processing zones (EPZs) employing a staggering 67 million workers – 30 million of them in China”.⁴⁰

The number of EPZs has been rapidly increasing since China entered the world manufacturing competition. The ICFTU study of the working conditions of workers in the EPZs found that “Employment in the zones has leaped from a few thousand in 1970 to just under 42 million in 2004. EPZs are often held up as a way for countries to develop their economies, generate employment, and obtain vital export earnings. But serious questions remain as to the real benefits of EPZs to development. By its very nature, EPZ investment is precarious, and likely to leave the country at a moment’s notice if more favourable conditions for production, including lower wage, are on the offer elsewhere.”⁴¹

³⁹ Royal Thai Embassy, Washington D.C., <http://www.thaiembdc.org/pressctr/pr/ftz.html>

⁴⁰ Stop Trading Away Our Rights, Oxfam International, source from ILO 2002, p 22

⁴¹ ICFTU, Behind the Brand’s Name, Working conditions and labour rights in export processing zones, December 2004, p 4

The textile and clothing industry is in fact an important industry for most developing countries, particularly in Asia. Of total world textile and clothing exports, 42 per cent comes from Asia.⁴² And among the world's low-income economies, over 20 countries rely on earnings from the textile and clothing industry.⁴³

World Trade Organization policy is to open up the world to be a global market and facilitate free trade policy of investors. This is included in many of the FTAs which developing countries are being pressured to sign, and in the process 'trade off' their own citizens, living with the illusion that that this free trade policy will bring in 'investors' and so increase employment.

The North American Free Trade Agreement is a good example of how free trade policy favours the access of rights to investors through flexible national legislation. Global Exchange reported that "So-called 'free trade' agreements such as NAFTA have exacerbated this race to the bottom. NAFTA is, in a sense, an 'investor's rights' treaty. That is, it gives investors new abilities to move production facilities and finished goods and services across international borders while providing investors with guarantees that governments won't get in the way of their business."⁴⁴

The logic of free trade architecture, including EPZs and FTAs, is to remove not only taxation and tariffs that may be burdensome to global businesses, but also to suspend labour laws and social protection. This flexibility is conceived to be a necessary pull factor for investment and trade.

Trade facilitation and promotion effectively means that Southern countries engage in negative competition with one another: who is better at providing incentive and protection to FDI investors, in many cases at the expense of their own citizen's rights?

Government authorities – including labour ministries – are to facilitate trade to please investors instead of ensuring social protection and enforcement of laws.

Investment promotion and incentives by developing governments in the special economic zones or free trade zone model have provided business with bargaining power over the United States.

The limits placed on trade union activities have lead to paying the cheapest labour cost without any welfare and benefit commitments.

2.3 THAILAND'S EXPERIENCE

The Social Welfare department estimates that 300,000 workers in the garment and textile industry will lose their jobs once the MFA is removed.

The textile and clothing industry has been in continual expansion ever since Thai products were first exported in 1972, and particularly during the early 1980s when investment in the sector was growing at an increasing rate. Investors from Hong Kong and Taiwan have been the main groups to invest in Thailand's textile and clothing sector. As the MFA is replaced by the WTO, bringing with it free trade rules, including the end of quota system in 2005, the accession of China and Vietnam to the WTO, and TNCs' employment of new strategies in the era of free market and technological advancement, Thai capitalists are having to make adjustments. Reduced production costs and market risks, as well as increasing productivity are fundamental to this adjustment process. Due to quota privilege benefits, Thailand's top export products 1986 – 1996 were garments and textiles.

⁴² Thai Textile Institute, The Project for Developing the Master Plan for Industries: the Textile and Clothing, 2002, Page vi

⁴³ Interview: Mark Lavenson, UNITE, USA, August 2003

⁴⁴ <http://www.globalexchange.org/campaigns/sweatshops/sweatshopsfaq.html>

Special economic zones: Profits before people

To maintain the garment and textile industry in Thailand from 2005 onward, the Thai government set up the Thai Textile Institute in 1996 to study and develop the industry. Additionally, the Institute provides assistance and incentives to manufacturers under Board of Investment promotion, Bangkok Fashion Center and Thai Labour Standard 8001. The Thai government is effectively turning the whole country into a special economic zone.

The FTAs that the Thai government has both signed and is in the process of signing will open up the country to full trade competition with no tax barriers. Meanwhile, the ending of quota systems in the garment and textiles industry is expected to drive many small factories out of business, leaving 300,000 workers jobless.⁴⁵

The export promotion department claims that Thailand will benefit from FTAs and that textile and garment exports will increase. To attract FDI in trade and investment, Thailand has signed FTAs with some of the world's biggest consumers, notably the US and Australia.

The Thai government has reclassified its export processing zones as special economic zones (SEZs), covering no longer export manufacturing goods alone, but now also other sectors, including tourism, agri-business, services and commerce. The Thai government was quick to adopt the proposal on special economic zones (11 January 2005) just before national election day on February 6, 2005.

The SEZ policy raises concern among many civil society groups in Thailand. "With SEZs, the move is unconstitutional, as the zones would be exempted from laws governing national parks, forest reserves, irrigation, labour, the environment and land traditionally reserved for Buddhist temples", says Phrasri Pariyatmoli, deputy rector of Chulalongkorn Ratchawithayalai. "The proposed bill would pave the way for the private sector to intervene for purely commercial purposes while affected communities would be denied access to legal mechanisms as the zoning would supersede them."⁴⁶

For labour organisations, one of the primary concerns is that SEZs aim to facilitate trade and investment along borders to access cheap labour from neighbouring countries, especially migrant workers from Burma. In Mae Sot, one of the biggest entry points for migrant workers from Burma, there are currently over 200 factories ready to receive these workers. However, these workers are engaged in the worst form of employment, with most of their rights violated.

Thailand has prepared for WTO free trade policy in the garment and textile industry by establishing the Thailand Textile Institute on October 15, 1996. "All parties involved shared the goal of forming an autonomous organisation to focus the development of the potential of the Thai Textile Industry for Thailand's sustained competitiveness in the global textile market." The two main objectives under the first master plan (1997-2001) are to upgrade the entire textile industry to enable Thailand to become a quality textile manufacturing country in line with the market rather than a low-cost one, and to equip the Thai textile industry with the readiness to enter a value added age under the same free trade system as in developed countries".⁴⁷

By the end of 2003, the Thai Ministry of Commerce had adopted another project amounting to 1.8 billion Baht, promoting Thailand as an 'Asian Fashion Centre.'

Thai Labour Standard, TLS 8001

To facilitate the image of good labour practices for investors in Thailand, especially in garment and textiles sectors, the Thai Ministry of Labour spent nearly 302 million Baht on Thai Labour Standard 8001 (TLS 8001). However, the Ministry

⁴⁵ Bangkok Business News, 17 February 2005

⁴⁶ The Nation, SPECIAL ECONOMIC ZONES: Monks and NGOs say no, February 06, 2005

⁴⁷ <http://www.thaitextile.org/eng/aboutus.asp>

outsourced even the certification process; applicants have to hire private monitoring agencies that are authorised by the MOL.

The model of TLS 8001 is very much in line with SA 8000. It is ironic that the Thai Ministry of Labour, which is responsible for enforcing the law, now works according to a business-driven, voluntary code of conduct, authorising private companies to investigate factories, which leads to the certificate of compliance from the Ministry of Labour. By designing the TLS 8001, it is obvious that they understand fully the consumers' – and thus brand companies' – demand for 'clean products'. Meanwhile, the SEZ legislation undermines labour laws and unions.

According to hundreds of news clippings from Thailand, these are some of the likely consequences of the new policy climate, including the end of the MFA, the signing of the FTA and the SEZ legislation:

Closing down of production plants and increasing use of sub-contracting factories. Industry is moving back to big factories that may complete production in a shorter time.

Small and home-based subcontracting factories will face the biggest problems related to the end of the quota system.

Relocation, not overseas but to remote provinces with cheap and unorganised labour forces. This is a direct consequence of the special economic zone incentives.

For the next couple of years, Thailand may increasingly become a 'forged label' country, where clothing produced in China is labelled 'Made in Thailand'. This is to secure entry into US and EU markets, pending China's full accession to the WTO (2008).

In the cycle of relocation after 1997, many Thai clothing manufacturers downsized their factories in Thailand and moved to Cambodia, Laos, Vietnam and China. A similar pattern was seen in Indonesia. However, Thai businesses are starting to move back to Thailand, claiming that production in neighbouring countries does not meet quality standards. In reality, Thai businesses are also returning due to the new policy climate in which cost-driving legislation related to social protection and labour rights are now being undermined by the SEZ, while some of neighbouring countries' relative advantages under WTO are offset by Thai signing of FTAs.

3. CORPORATE SOCIAL RESPONSIBILITY – OR NOT?

3.1 CORPORATE CODES OF CONDUCT

The global garment business has been harshly criticised for exploiting the race to the bottom, i.e. for taking advantage of the fact – and being complicit in spurring – Southern governments' and producers' negative competition for trade and investments by means of violating labour and social protection laws. Attempting to constrain themselves from such exploitation, most global brands have in principle committed themselves to voluntary good practice, so-called codes of conduct. Codes of conduct serve as contractual conditions that the producer company must subscribe to in order to obtain orders from the global brands. The extent to which the producer company actually live up to the codes, is in principle monitored by the brand customers, commonly by means of private auditing, e.g. the SA 8000 standard.

Codes of conduct are mostly based on fundamental rights of the International Labour Organization and national labour protection legislation. ILO's Declaration on Fundamental Principles and Rights at Work still remains a paper tiger. Many manufacturing countries still have not ratified all of the ILO conventions, so the need to pressure every government to ratify and enforce all fundamental principles of the ILO remains, if one is to transform "the paper tiger into a baby tiger".

ILO Fundamental Principles and Rights at Work Conventions:

- Convention 87 Freedom of Association and the Right to Organise
- Convention 98 The Right to Organise and Bargain Collectively
- Convention 29 Forced Labour
- Convention 105 Abolition of Forced Labour

- Convention 100 Equal Remuneration
- Convention 111 Discrimination (Employment and Occupation)
- Convention 138 Minimum Age Convention
- Convention 182 Prohibition and Immediate Elimination of the Worst forms of child labour

Most of codes of conduct cover the following rights and protection areas and the principal ILO conventions, covering the following areas:

- No discrimination (based on gender, ethnicity, religion etc)
- No child labour (workers to be no younger than 15 years)
- No forced labour
- Minimum / living wage
- 60 hour working week (48 + 12)
- Freedom of association (but remains very weak in all but labour advocates' codes of conduct, like those of the ICFTU, Worker's Rights Consortium and CCC).
- Safety environment and fire prevention
- Personal protective equipment (PPE)
- National labour law protection standards

However, most codes are contradictory when it comes to applying national labour law protection and standards, as most countries in the developing world have not ratified – and often abstain from enforcing – many of the principal conventions of the ILO. Thus, conflicts of interest may arise between local manufacturing and corporate codes of conducts.

After ten years with codes of conduct in place, it is clear that the key to improving the working and living conditions of the million workers in the garment industry is to secure collective bargaining and trade union rights, and create a space for these workers to be officially involved in such processes without threat or fear. Currently, workers are not told to use the codes of conduct system, but are, instead, taught to fear the system.⁴⁸

3.2 MYTHS IN THE CSR DEBATE

Whereas global brands have a real responsibility for working conditions at their contractors' factories, and indeed can make a difference by demanding proper working conditions and helping to realise them by offering better contracting terms, codes of conduct have not prevented labourers working for global brands from facing rights violations, indignity and harassment every day.

Myth: "Minimum wages are living wages"

Almost every country has several wage scales, depending on the decisions of the provincial committee. In Thailand, wage scales vary according to the decisions of provincial wage committees, ranging from 133 Baht to 175 Baht for 2005. These increased considerably between 1994 and 1996, from 135 Baht to 157 Baht: an increase of over 20 Baht in two years. However, levels have stagnated since the economic crisis; wages increased by only 18 Baht over the eight-year period 1997 – 2005, as compared with an increase of 10 Baht yearly 1994 –1996.

This is contrary to Indonesia, where minimum wages have been increasing following the devaluation of the country's currency. However, the wages in Indonesia are still very low and definitely not a living wage.

In nearly every case the wage falls below the real cost of living. This is reflected in a Chan and JS Ross study as well. "Contrary to general wisdom, the growth in employment has not translated into higher wages either in Mexico or in China.

⁴⁸ Junya Yimprsert, Codes of Conduct After over 10 years: More Pressure is Needed, Critical Guides to Corporate Codes of Conduct, AMRC 2004

Indeed, there has been a decline, as competition to attract factories that sell to the markets of the North intensifies. This is reflected in the low legal minimum wage levels set by the two countries and in the real purchasing power of workers.⁴⁹

In 1994, salaries ranged from US\$ 112 to US\$ 138 per month, US\$ 26, or 29 per cent, higher than respective salaries in 2004. The real wage has actually dropped by 29 per cent over ten years, despite the drop in currency exchange and not taking into account inflation emerging from the economic crisis.

On the other hand, according to Susan George, "The North-South differential was about 2 to 1 in the 18th century, 30 to 1 in 1965 and is now 80 to 1 and rising. Many of you will also have heard the comparison between the billionaires and the billions – not a scientific comparison, but striking. The combined assets of the world's 440-some dollar billionaires, is equivalent to the net worth, as measured by GDP share, of roughly half the world's people."

Myth: "We don't want overtime, but the workers do!"

A Thai worker who has worked in the sportswear industry for 14 years earns only a 182 Baht daily wage. "My company produces for Nike, Puma, Colombia and Next. Mostly we produce for export to the United States and Europe. The present order is for Nike which has its labour code of conduct announced at the factory." Yet, after working for 14 years, she received 182 Baht (8 baht higher than minimum wage). "We'd like to tell the brands that there are problems with their rules and ask them seriously to fix it. The workers want to do overtime because wages are so low. If we can't do overtime, we must get fair pay."⁵⁰

Manufacturers always claim that the workers want to work overtime – and so force them to violate their customers' codes of conduct. They also claim that the 60-hour working week is unrealistic for garment manufacturers in every country.

It is true that workers demand overtime and that overtime hours are one of the push-and-pull factors in the level of worker turnover in factories. However, workers ask to work overtime because they need overtime money. As the minimum wage is a starving wage, not even enough to cover basic needs for just one person, workers with family responsibilities need to double their income to cover their expenses. They have to work overtime or find other sources of income during any free time they have in order to earn another 50-100% on top of basic salary.

The issue of the 60-hour working week can never be solved without a real change in wage structure under the codes of conduct and legislation in all developing countries. Minimum wages must be increased by at least 50-100% to constitute a living wage.

In Thailand, where the working lifestyle makes no provision for childcare centres, children of manufacturing workers are mostly raised by their grandparents. "My child is with my mother in Srisaket province – over 100 kilometres away from Korat. My salary is 4500 Baht, including overtime payments. For this I pay 1,600 Baht for my food, which is 3 simple plates of rice a day and a coffee, my rent, including electricity and water at 1,200 Baht, and petrol for my motorcycle at 600 Baht." When I asked a worker in Korat, "Is a plate of rice enough for a meal?" He replied, "Whether it is enough or not, I have to eat just that."

Myth: "Any job is better than no job!"

Countries in both North and South are faced with serious crises of unemployment. In the North, this is due mostly to relocation of the manufacturing sector. Countries in the South face agricultural sector collapse, pushing poor people in rural areas to seek jobs in large towns or in the capital. Most countries in the South experience a strong drive towards economic centralisation. It might therefore be construed that for every new job on offer – regardless how bad the terms – there are hundreds of happy takers. This is a myth.

⁴⁹ Anita Chan and Robert J S Ross, Racing to the bottom: international trade without a social clause, *Third World Quarterly*, Vol 24, No 6, pp 1011 – 1028, 2003, p1017

⁵⁰ US\$ 1 = 39 Baht. This woman earns US\$ 4.6 a day, 4.3% more than highest Thai minimum wage scale, which is 175 Baht in 2005. This is extremely low for workers who must work for many years to earn just the minimum wage in the highly-skilled, in-demand sportswear industry

'Any' worker does not simply take 'any' job. In reality, most workers still look for jobs with better pay and where their human dignities are upheld. The real takers of 'any job' are often illegal migrant workers. Their living situation is so precarious that they might easily be exploited.

Mainstream economists claim that sweatshops are necessary for development growth, referring to the development of Europe and the US since the industrial revolution. But western history also demonstrates that human dignity will prevail once workers say no to indecent jobs: the difference between workers taking 'any' job and actually saying no lies in the power of negotiation. Workers throughout the world have been brainwashed to believe that they don't have to / should not exercise their power of negotiation, because it will lead to the closure of their workplace. However, exercising the power of negotiation does lead to better living condition for workers and families, provided workers everywhere exercise this right.

Myth: "We have codes of conduct, and so have no need for a trade union"

Codes of conduct and business initiatives for social responsibility are in part motivated by the need to give legitimacy to the economy of the 'race to the bottom'. Many corporations that apply the CSR model of codes of conduct claim that they are thus ethical, socially responsible corporations that respect the environment, human rights and labour rights standards. The ITGLWF statement in Davos of February 2005 responds to this claim:

"We are socially responsible because our clients expect us to be and because our workforce want us to be. We are because it is simply the only way to do business", proclaimed corporation boss after corporation boss.

"Come again?! Is this the same business community that controls sectors of industry like textiles, clothing and footwear? That imposes seven-day workweeks, twelve hours a day? That brutalises its workforce, subjecting them to daily health and safety hazards, beats them when they make mistakes, terrorises them when they complain and fires them if they even think about joining a trade union?"⁵¹

⁵¹ ITGLWF, Davos: A World Away From Reality, 1/2/2005, full detail can be seen at, www.itglwf.org

PART II

THE EXPLOITATION OF BURMESE MIGRANT WORKERS IN MAE SOT, THAILAND

INTRODUCTION

Mae Sot in Thailand is a major location for Norwegian Church Aid's (NCA) long-standing concern and work for Burmese people seeking refuge from war and one of the most brutal military regimes in the world. While NCA and partners traditionally have concentrated efforts towards the 140 000 Burmese refugees living in UN camps along the border, there is now a strong humanitarian concern for the between 1 and 2 million (many illegal) vulnerable Burmese migrants as well.

A Burmese organisation brought to NCA's attention the plight of the Burmese migrant workers and the full savagery of the race to the bottom in the Mae Sot garment industry. Well-known global brands like Tommy Hilfiger, Melka and Camel were found in garment factories in the border town.

NCA learnt that the Burma Labour Solidarity Organization (BLSO) had detailed knowledge of the working conditions in Mae Sot and that they offered help to the desperate workers. BLSO is not a trade union as such, as Burmese trade unions are not allowed in Thailand, but more of an informal association for migrant workers. They mobilise workers and give training, advice and information on human rights and labour rights. They also provide a safe house where workers in difficulty can stay.

NCA asked BLSO to write a report on garment production and assess whether or not the production in Mae Sot was intended for export. The report concluded that a lot of the production was in fact for export and that some well-known brands were produced in these factories. NCA then asked BLSO to write a more detailed report based on interviews with migrant workers focusing on working conditions.

After receiving the report, NCA decided to follow up the issue by producing a TV documentary and presenting this to Norwegian importers and the public at large. NCA informed the Norwegian Ethical Trading Initiative (IEH) about the work and agreed to keep them updated on the issue. At this stage IEH was in the process of recruiting clothing companies to the initiative and welcomed more documentation on the ethical standards of garment production. NCA promised to give the full report on our work to the IEH in advance of the documentary's first television broadcast. This was to give the corporate members of IEH enough time to assess the situation and prepare the most constructive answer: namely an improvement agenda and NOT a termination agenda.

Usually, big multinational brands react to reports like this by terminating contracts with the factories in question and claim that this is their way of taking responsibility. NCA and other organisations, however, demands that the international brands do not terminate contracts, but instead work with the suppliers in their supply chain to improve working conditions. This is also what the workers are asking for - they came from Burma, paid dearly for their official working permits and found that companies do not respect Thai law or international labour standards. They should not lose their jobs because brands like Tommy Hilfiger cut and run from their obligations.

NCA gave all the documentation to the journalist Erling Borgen for more journalistic research and he produced another report. He travelled to Thailand and interviewed migrant workers. He also contacted international brands and asked for their response to the information contained within the first TV documentary.

Most of the brands claimed that they do not produce clothes in this area, and that the production we had found was most likely to be counterfeit (fake) production. NCA was left with three scenarios:

The production is in fact counterfeit, and we have no case in asking for improvements by the international brands.

The production is genuine, but the international brands are not aware of the sub-contract being placed in this area.

The production is genuine, and the international brands are aware of the sub-contracting.

In the two latter scenarios, the supply chain of the brands starts in the factories we have researched and we can thus hold the brands responsible for their entire supply chain, be it formal or informal. However, we cannot say for sure whether all the brands are in fact aware of the sub-contracting. To us, this is beside the point as it is still their supply chain and therefore their responsibility. It is well known that some factories set up 'front factories' with good facilities and working conditions to be presented as the production site to costumers, while in fact the majority of the production takes place in a much 'cheaper' location where social standards are violated.

In recent years we have seen a rise in ethical awareness amongst international brands. Most brands have developed their own codes of conduct stating that production of their products must be in compliance with national and international regulations. There are, however, some severe limitations to these codes. Firstly, most of them state that violations will lead to termination, not improvements. This does not show respect for the interests of the workers. Secondly, the codes are often not implemented at sub-contractor level and thirdly, trade unions are not seen as key stakeholders.

Still our experience tells us that most international brands, be it in clothing or any other sector, do not want to be associated with violations of human rights and are willing to go a long way to secure good practice in their own supply chains. But this is clearly not the case in the Mae Sot garment factories.

1. THE MAE SOT WORKING CONDITIONS

1.1 EXPLOITING THE MOST VULNERABLE

The Burmese migrants that end up in Mae Sot have fled a difficult political and a worsening economic situation to find work in Thailand. Systematic rape and sexual violence is often used to control and terrorise ethnic Karen, Mon, Karenni, and Tavoyan.⁵² Often work in Thailand is the only income for families haunted by forced labour, stealing of food by the military, and economic stagnation.

On the way to Mae Sot and other locations in Thailand, the Burmese encounter enormous hardships, including the threat of arrest on both sides of the border and death in the hands of smugglers.⁵³ They often come from Rangoon and the interior walking on clandestine jungle routes. The 2000 km Thai-Burma border is extremely porous, as seen from the bridge over the Moei River, where Burmese people walk across the river. Many also enter the country on a day pass, but then stay in Thailand to work illegally. Most migrants go to places where workers are needed, like Mae Sot, taking jobs Thais often will not take.

Box 1. Factors behind Burmese fleeing / being trafficked to Mae Sot

Push factors (mix of political and economic reasons): systematic taking of livelihood by the *atmadaw* (Burmese military), systematic rape, war on ethnic groups, forced labour, no money due to economic standstill, very bad human rights situation. Pull factors: rumours from friends and relatives, higher wages, better human rights situation, Thailand's rapid economic growth.

At the very end of the chain of production, Mae Sot provides a cheap, vulnerable and exploitable work force. At present, there are nearly 200 medium and large factories in Mae Sot. While the population of Mae Sot was originally 30,000, there are now over 100,000 Burmese migrant workers there.

The working conditions in Mae Sot are below internationally accepted standards of good practice, and also violate Thai labour law and voluntary in-house codes of labour practice developed by brand name garment companies.

Numerous labour violations have been identified through interviews with workers in the period of February 2002 to March 2003.⁵⁴ Similar violations are still going on in Mae Sot.

⁵² "Health Consequences of Sex Trafficking", testimony of Holly Burkhalter, Physicians for Human Rights to House International Relations Committee June 24, 2004.

⁵³ "Myanmar. Lack of Security in Counter-Insurgency Areas", Amnesty International 2002.

⁵⁴ Built on the unpublished report "Hidden Exploitation: Burmese Migrants in Thai Garment Factories. Hidden Sub-Contracting by Tommy Hilfiger Corporation and other brands, Mae Sot, Thailand" Norwegian Church Aid 2004.

BOX 2: Nu's Story: echoing thousands of voices of Migrant workers from Burma in Thailand

Interviewed by Junya Yimprasert, February 2004

"Mum crossed the border to get money from our father who works on a construction site .Guns fired in Burma, guns fired in Thailand, so mum could not come back home. I and my brothers and sisters suffered...over four months...the neighbours brought us rice and chili" .

Nu is 22 years old. She comes from Paan, the capital city of Shan State. At the age of 14, she began work in a garment factory. She returned to Burma but then came back to the factory at the age of 16 in 2000 to work at an export garment factory.

At that factory, Nu typically worked from 8 am to 10 pm making two dozen sweaters in order to earn 70 Baht per day. "My employer will deduct Baht 300 monthly for permission to work, but we have to run and hide every time the police or even a visitor is here." Nu had to play hide and seek with the police and her work was extremely insecure.

The supervisor told me "The police are here. You've got to run." But I didn't listen. "Let them come, I'm not going away. Those on the ground floor would stay, so will I." So 16 people, including me, were arrested. Before we were arrested some of us had hidden underneath the clothes piles, but were pricked with sharp iron sticks by the police.

Nu ended up having to sleep in jail for 15 nights. She and the other migrant workers arrested at the factory that day contracted food poisoning from the prison rations. Nu's father and brother raised 700 Baht to pay for non-prison food and to pay for her transportation when the police deported her.

Nu explained that being forced to pay the police bribes is a part of all Burmese migrant workers' lives. "When we meet the police in Mae Sot, we have to prepare at least 200 to 300 Baht in bribes to keep out of trouble." This is a huge amount of money for workers who sometimes earn less than 60 Baht per month after their employers make various deductions from their wage of 1,500 Baht per month.

Thai authorities and Thai people often look the other way when such abuses of Burmese migrant workers occur. "I want Thai people to look at us as equal human beings. We want to get the same respect and the same rights. When a Thai person is killed, the Thais say that it is a Burmese who killed them. But when a Burmese is killed by a Thai, the Thais just say: 'This is our country, killing Burmese is alright.'"

pm till midnight and sometimes till 6 am in the morning. This gives them two hours rest before the next day's production begins at 8am. This can go on for 3-5 days. There are reported incidents of factories mixing amphetamine in the water or coffee to keep workers awake during such long working periods.

1.4 DEDUCTION IN WAGES

It is normal for the factory to deduct 300 Baht for work permit from the wages of each worker every month. Deduction for rice and curry vary between 200 and 500 Baht per month. Sometimes, when the orders are few, and workers only earn a small amount per month (e.g. 1000 to 1500 Baht) deductions 'eat up' most of the wages creating financial problems for the worker. In such times, there have been many protests from the workers demanding that deductions are not made if the total salary is less than 1000 Baht.

1.2 WAGES

Thai national regulations set the daily wage for this province (Tak) to 133 Baht per day (135 Baht per day as of January 2004) before overtime. Most of the factories in this area pay between 45 and 80 Baht per day, and hence break Thai regulations on a systematic basis. Some factories force workers to sign fake wage lists showing that the minimum wage is being paid to everybody. Many of the factories are based on per piece payment and most often the workers are not informed about the rate of payment per piece until close to payday. There are frequent conflicts about wages in the factories with per piece payment systems – mostly the knitting factories. Garment factories are mostly based on daily wage systems. Many of the factories do not pay extra for overtime, and instead give the workers random bonuses on payday.

In the knitting factories skilled workers can earn between 2000 and 2500 Baht per month (70-80 Baht per day), while unskilled workers earn between 1000 and 1500 Baht (40-50 Baht per day). For the skilled workers this is about 1,5 to 2 US dollars per day, including the overtime payment. For the unskilled workers this is around one US dollar per day, including overtime. This is far below what can be termed a 'living wage'.

1.3 WORKING HOURS

A normal working week varies between 70 and 100 hours depending on the time of deadline for the contract. Normal working hours are from 8 am till 9 pm with two one-hour breaks for lunch and dinner. The session from 6 pm to 9 pm is termed overtime, but is not voluntary.

On Saturday and Sunday, if there is not a peak production period, work ends at 5 pm. Workers are expected to work every day of the month and are given only one day holiday per month, the day after payday.

When a contract deadline is approaching it is normal to increase production to 'peak production capacity'. This means that workers are required to work overtime from 6

1.5 HOUSING AND SANITARY CONDITIONS

Most of the workers live within the factory compound. The living quarters are densely populated and it is normal for 30 to 50 workers to share a room with three-tiered beds. There is normally no air-conditioning and the iron sheet roof provides little protection from the heat. Workers report that it is very difficult to sleep in the summer. The water supply is often scarce or not working at all and skin diseases are frequent due to lack of water and bad sanitation. Toilets are dirty and smelly and one toilet is often shared by 30–40 workers. During working hours, workers are not allowed to go to the toilet without permission.

1.6 CHILD LABOUR

There is not a lot of child labour in the factories in Mae Sot. But some of the large factories have employed children, aged 13 – 15, who come accompanied by their parents or older brothers or sisters. The children do not do heavy work. Children are always ordered by the factory authority to leave the premises whenever there are external inspections.

2. THE LOW-COST NEXUS

“Migrant workers have played an important role in the garment and sports shoe industries for decades.”⁵⁵

What are the economic forces that drive labour conditions down to slavery? Why do both Thai factory owners and Thai authorities seem to think that their interests are best served by violating workers’ rights? Why are brands for export found in Mae Sot? Why are migrant workers so important in the garment industry?

The extreme working and living conditions the Burmese migrants face in Mae Sot can be termed apartheid (Thai-Burmese relations), slavery (bonded nature of work), and neo-colonialism (multinational brands gaining the profits). The slave-like arrangement strikes a balance between the interests of multinational garment brands (seeking maximum profit), the Thai government (upholding Thai production), the Thai garment sector (exploiting cheap, exploitable labour for profit) and the Burmese government (keeping check on dissidents outside Burma).

A culture of impunity has developed where Thai people daily oppress and intimidate Burmese workers in a situation of bonded labour and multinational brands turn a blind eye to the resulting human and labour rights abuses.

While downstream brands – and retailers and consumers – may not always know about this situation, they are the main beneficiaries of this low-cost nexus.

2.1 NO BRAND RESPONSIBILITY IN MAE SOT

Many brands have introduced ethical guidelines because of negative publicity surrounding bad working conditions, yet a large number of brands are still to be found in Mae Sot. Because of profit seeking, ever-increasing competition and footloose capital, brands shift contracts for production to places like Mae Sot.

This race to the bottom means that the garment industry possibly is “... the most widespread example of a buyer-led global commodity chain.”⁵⁶ Due to ongoing international liberalisation, economic restructuring is happening more and more often at global, regional and local levels in garment production.

In Mae Sot, Burmese migrant workers at the bottom of the supply network, especially women, who traditionally work harder and under worse conditions, are pushed mercilessly to the bottom of the race.

The garment sourcing system for brands today is characterised by global production networks rather than production chains. The global garment production network is characterised by many actors, in many different places and levels,

⁵⁵ “East and Southeast Asia Regional Labor Research Report”, Nina Ascoly and Ineke Zeldenrust 2003:40.

⁵⁶ ILO cited in “East and Southeast Asia Regional Labor Research Report”, Nina Ascoly and Ineke Zeldenrust 2003:8.

geographical shifts in production, and low transparency. Because of lower labour standards and/or government incentives or trade agreements the production of garment shifts from to location to location within the supply network.⁵⁷

The increasing mobility of capital as a result of liberalisation, and increasing labour migration meet more and more frequently in Mexico, in China, in Malaysia. In Mae Sot, and in other places in Southeast Asia, "Streams of migrant workers have often supplied the labour needed to fuel these industries ..."⁵⁸. As can be seen in Mae Sot, there is an ongoing feminisation of the labour force in Southeast Asia⁵⁹. The great majority worldwide – estimated at 80 per cent of garment workers – are women.⁶⁰

The name of the game in global sourcing today is so-called flexibilisation. The production structure within the sourcing economy determines the flexibilisation of the labour market in Mae Sot, Thailand and elsewhere. Flexibility is a neo-liberal term for greater acceptance of longer working hours and substandard conditions bound neither by legal requirements vis-à-vis benefits, nor the well being of local workers; this is a significant characteristic of migrant and female labour in many areas. Brands and their agents, suppliers, sub-contractors, employers and authorities are a part of this downward pressure for flexible, sub-standard and exploitative working relations in Mae Sot and elsewhere.

The constant flow of cheap and flexible Burmese (women) workers outside a national protective framework fits in very well with the inherent global profit-oriented production structure of brands, agents, suppliers and sub-contractors.

Mostly now, though, the factories throughout Southeast Asia, including Mae Sot, are owned by Asian multinational companies. Many of these companies make bigger profits than the brands do. Lately, more emphasis has been placed on these suppliers' responsibilities within the production network.⁶¹

In the fragmented, but integrated production system it is more and more difficult to determine who is responsible for the workers.

NCA's position on this issue is that the buyer, i.e. the brand, bears the responsibility for the workers who actually make the garments for export to consumers. The brand usually makes the greatest profit, and also has an ethical responsibility to present properly made products to consumers. A brand that holds a substantial market share can be influenced by ethically motivated consumers.

In Mae Sot, NCA has found Burmese migrant workers producing well-known brands like Tommy Hilfiger, Melka and Camel. These are companies with ethical guidelines to take responsibility for the production of their garments.

The brands employ verifying companies to check the sub-contractors. One problem is that these companies are paid by the brand and are not independent. In Mae Sot, representatives from the Thai Labour Authority or from the company ordering the products do sometimes carry out announced inspections of the factories. When this happens, the factory authority will ask the workers to clean everywhere and order the children to leave the factory. The management makes sure there is enough water and soup available. Only workers who are willing to state that the minimum wage is paid, that overtime is paid according to Thai regulations, that deductions for rice and curry are reasonable and that working hours are within the legal frameworks are available for interviews by the inspectors. Managers tell these workers that orders will not come in the future if they are not willing to tell the 'official story' to the inspectors.

⁵⁷ "East and Southeast Asia Regional Labor Research Report", Nina Ascoly and Ineke Zeldenrust 2003:40.

⁵⁸ "East and Southeast Asia Regional Labor Research Report", Nina Ascoly and Ineke Zeldenrust 2003:10.

⁵⁹ "East and Southeast Asia Regional Labor Research Report", Nina Ascoly and Ineke Zeldenrust 2003:11.

⁶⁰ International Labour Organisation (2002) in "East and Southeast Asia Regional Labor Research Report", Nina Ascoly and Ineke Zeldenrust 2003:11.

⁶¹ For instance Asian TNC Monitoring Network has been set up.

Some brands hide behind the complex production structure, shrinking from their social responsibilities for production. Despite low transparency, NCA has managed to follow the production network of the multinational brand name Tommy Hilfiger to Mae Sot, and mapped ownership relations between Tommy Hilfiger and the agent.

In contradiction with their own codes of conduct, international brands are not living up to their responsibilities to ensure that their products are produced in an ethical manner. The public has to be made aware of this, and through their purchasing power and their direct actions must pressure these companies into changing the desperate conditions under which Burmese migrants work in Thailand.

As the study of Tommy Hilfiger Corporation below will show, this is the case for their sub-contracting to Mae Sot⁶². In the aftermath of the disclosure by NCA/BLSO in May 2003, the company's response, according to workers in Mae Sot, was to cut and run.

This is the way the production network of Tommy Hilfiger more or less operated as regards production in Mae Sot. Tommy Hilfiger first placed an order with its agent South Ocean Group. The large organisation Novel Enterprise controls both Tommy Hilfiger and South Ocean Group and they are all based at the same address in Hong Kong. South Ocean Group passed the order on to its showcase supplier Sunrise Knitting outside Bangkok. South Ocean Group owns the factory. The showcase factory operated labour standards in accordance with their code of conduct. The unofficial sub-contractor was located in Mae Sot, also owned by South Ocean Group. The official and unofficial sub-contractors shared offices in Bangkok.

The supplier of yarn was a subsidiary of South Ocean Group, Gracedon Knitters, which has a factory located in China. Their office is located at the same address as Tommy Hilfiger, South Ocean Group, and Novel Enterprise. Sometimes another agent was also used, Champion, also based at the same address. The former name of the factory in Mae Sot was Champion.

It was extremely difficult to find evidence of the fact that Tommy Hilfiger garments are actually produced in the factory in Mae Sot. In danger of losing their jobs and being deported back to Burma, workers smuggled out documents and labels. This shows the complexity involved when verifying that companies follow their own codes of conduct.⁶³

2.2 ENSURING THAILAND'S COMPETITIVE EDGE

Thailand's competitive edge in the garment production race to the bottom is built upon the exploitation of Burmese migrant workers in Mae Sot and elsewhere in Thailand. This is a structural pressure point in Thailand and a willed ideological strategy from the authorities.

Situated by the Moei River on the Thai border with Burma, and taking advantage of the huge influx of Burmese migrant workers, Mae Sot started to develop as an industrial town in the mid 1990s. Today at least 80,000 Burmese immigrants are employed in Mae Sot: they are involved in garment production, construction, farming, and domestic services. They amount to three times the original population of Mae Sot (!). Between 150 and 200 factories are based in the town. Almost the entire workforce is made up of Burmese migrants, and about 80 per cent make garments. The majority – between 75 and 85 per cent of the workers – are female. The biggest factories employ between 2000 and 3000 workers each.

Thailand is now one of the so-called second generation producers of garments, and is about to enter the same stage as the US and EU. Faced by cheap labour in the era of globalisation, labour-intensive garments are effectively no longer produced in the US and the EU. From the end of the nineties, immigrant workers carried out the production of garments

⁶² Forthcoming report from NCA.

⁶³ In fact Tommy Hilfiger also has a clause in the codes that say that the company can terminate a contract if violations are found at sub-contractors. This means that Tommy Hilfiger can cut and run if disclosed, as the company did after the disclosure of the production in Mae Sot.

in the US and the EU.⁶⁴ They were often unaware of their rights, and produced garments for big multinational brands with only poor protection from the authorities. They received pay that was well below the legal minimum wage.

The deteriorating economic situation in Burma made many Burmese people leave for work in Thailand, and many factories moved to Mae Sot because of the plentiful supply of labour. Already in the late 1990s, *Business Thailand* magazine was urging Thai industries to relocate to neighbouring countries, "or to place factories along the border to be able to take advantage of the plentiful cheap foreign labour."⁶⁵ Thailand's booming economy and economic development during the mid-nineties also meant that Thais could take other jobs than those falling into the category of the three D's: Dirty, Dangerous and Difficult. Thai industry has for years now been dependent on the constant supply of workers from Burma.

Following the end of the Multi-Fibre Agreement (MFA) in 2005, pressure on the Thai garment industry will increase. Garment-producing countries like Thailand already face sourcing by multinational companies increasingly going to China and Indonesia. According to one observer, China is already "sucking away jobs... Globalisation is entering a fateful new stage in which the competitive perils intensify for the low-wage developing countries... In the 'race to the bottom', China is defining the bottom".⁶⁶

The result is that the actual wage level in Mae Sot is comparable only to minimum wage levels in China and Indonesia. There, upper levels are 39 and 34 dollars a month respectively⁶⁷. As mentioned above, the legal minimum wage in Mae Sot is 135 Baht per day (2.9 US dollars), and the payment for unskilled workers is between 50-70 Baht per day (1.1-1.6 US dollars). From this amount about half is taken by local officials for 'permission' to work.⁶⁸ Money for food and accommodation is also illegally deducted from the salary, leaving workers with barely enough to cover the cost of living expenses. The employers use the explanation of deductions as the reason for not giving minimum wage. The payment is still better than in Burma, where the minimum standard is around 3 US dollars per month⁶⁹(!).

To make investing in Mae Sot more attractive, the Thailand Board of Investments (BOI) offers investment privileges to support government attempts to decentralise the industrial base.⁷⁰ Mae Sot is ranked within the most privileged export zone: the Special Investment Promotion Zone. There are some similarities to the export processing zones (EPZ). In general EPZs offer investors tax abatements, infrastructure, a large supply of workers at low wages, and a strategic location in relation to market access⁷¹. In Mae Sot, though, the main asset is, in addition to tax privileges, the enormous supply of Burmese immigrant workers who can be exploited to the full. By late 2003, 44 companies in Tak Province were receiving BOI tax-based privileges.

⁶⁴ "East and Southeast Asia Regional Labor Research Report", Nina Ascoly and Ineke Zeldenrust 2003:

⁶⁵ "East and Southeast Asia Regional Labor Research Report", Nina Ascoly and Ineke Zeldenrust 2003:8.

⁶⁶ William Greider quoted in "A 'Race to the Bottom'. Globalisation and China's labour standards" in *China Perspectives* no. 46 2003 by Anita Chan.

⁶⁷ "A 'Race to the Bottom'. Globalisation and China's Labour Standards" in *China Perspectives* no. 24 2003 by Anita Chan.

⁶⁸ "Burmese Migrant Workers in Mae Sot, Thailand. General Overview." Dennis Arnold, Thai Labour Campaign and SE Asia Researcher-Asian TNC Monitoring Network 2004:4.

⁶⁹ "Burmese Migrant Workers in Mae Sot, Thailand. General Overview." Dennis Arnold, Thai Labour Campaign and SE Asia Researcher-Asian TNC Monitoring Network 2004:4.

⁷⁰ "Burmese Migrant Workers in Mae Sot, Thailand. General Overview." Dennis Arnold, Thai Labour Campaign and SE Asia Researcher-Asian TNC Monitoring Network 2004:5.

⁷¹ http://www.thailand.com/exports/html/law_general_12.htm

Box 3: Factors determining export garment industry in Mae Sot

Push: Low profitability due to high labour costs.

Pull: Constant supply of Burmese (mostly women) migrants, Thai BOI privileges, no organisation of workers, insufficient migrant labour protection law and non-enforcement of labour protection law.

Context: Global competition, sourcing network, no international regulations for MNC's, non-compliance with codes of conduct, no home country regulation and free trade agreements.

2.3 BUSINESS FRIENDLY POLICY

The migrant workers policy in Thailand is founded in the economic and security arena. Traditionally the Thai government has been very business friendly, and this has become even more the case since the Thaksin government has been in power. The relationship with Burma is also essential and has shaped this policy from time to time.

In Thailand, Burmese workers fall somewhat outside the scope of coverage of national labour law and have a very weak position vis-à-vis the law. According to Thai law, only Thais can form a trade union and act as union committee members. Burmese people are only allowed to join Thai unions. Sometimes the factory authority will allow formation of social clubs for the workers, but the intention of these groups is

mostly to control drinking, gambling and fighting among the workers, and hence works in the interests of the owners.

From time to time, workers organise protests for better wages or better working conditions, but the response from the factory authority is to identify the 'active workers' and dismiss them. These workers have their photograph added to a blacklist, which is circulated among the factories, and are likely never to be employed by any other factory in the area.

After 1997 all migrant workers in Mae Sot were illegally employed. After a series of deportations, factory owners complained of problems getting enough workers and the government introduced the system of workers' registration cards. This was the main reason, but other factors contributed as well. A high-standing official has said that the reintroduction, after the Asian financial crisis in 1997, of the registration round in 2001 was for the authorities to know the exact number of foreign labourers in the country "and bring them under control".⁷²

Today, roughly 50% of the employed workers have valid legal status as workers. However, in most instances and on the contrary to Thai immigration law, the factory keeps the original registration card, and the worker is given a photocopy. Workers have been arrested for not carrying the original card.

The registration card is only valid in the factory where the worker is employed. If a worker is dismissed or chooses to terminate his employment, then his/her permission to stay in Thailand expires and the worker can be deported back to Burma. This means that workers have an extremely bad bargaining position towards their employers in that they cannot move freely to another factory.

Mostly to control the Burmese and appease the Junta in Rangoon, a new registration round ended August 1 2004. This new registration is supposed to make Burmese immigrant workers less vulnerable, allowing them to change jobs without fear of being deported, but the effect on the ground has yet to be seen. According to Moe Swe, a labour activist in Mae Sot, the situation has still to improve, "...to prevent alien workers from changing jobs, factory owners in Mae Sot have agreed that workers who wish to seek a new job must present a letter from their former employer".⁷³

The rationale given for the newly finished registration of August 2004 gives an indication of the Thai government's future policy. The explanation given by the authorities is that registration prevents criminal activity, the spread of disease, the shortage of manual and household labourers and the threats to national security by the Burmese in Thailand. One of the main victories in the new registration round was that workers were to be given legal status and the possibility to change employer when wanted, but one of the consistent problems in Mae Sot has been the will and ability to enforce the labour laws.

⁷² "Burmese Migrant Workers in Thailand: Policy and Protection" in Legal Issues on Burma Journal, no. 10, 2001:7.

⁷³ "Migrants Working Overtime since Registration" by Shah Paung, www.irrawaddy.com.

In Mae Sot corruption is rampant and law enforcement resources, including immigration officials and the police, are corrupt, understaffed or inadequate. Hopefully this will change, but in the region, "...governments seek to accommodate employers in order to facilitate investment in their countries".⁷⁴ Looking at the present government and current competition for investment in the garment sector both regionally and globally, the fact that labour law enforcement is lax in Thailand has a great deal to do with giving economic incentives to the employers in Mae Sot.

Thai labour law is becoming weakened. In the global race to the bottom, the Thai government wants a more flexible work force. In this picture, vulnerable Burmese women who are unaware of their rights are the most flexible and fit in with the employers' race for the highest possible profit.

2.4 EMPLOYER'S PLAYING FIELD

What is the rationale of the factory owners in Mae Sot? The pervasive, widespread and general abuse of Burmese migrants in the factories means that no employer can hide behind the words "I did not know". The lax enforcement and insufficient regulation is symptomatic for the bias towards employers' interests as opposed to those of the workers.

Exploiting the vulnerable Burmese workers is a cynical and effective strategy to obtain the highest possible profits. Socially responsible businessmen in Thailand support this view: "Factory owners in Mae Sot are low-class businessmen"⁷⁵. The factory owners are mostly Southeast Asian multinational companies, in joint ventures with Thais.

In the knitting and garment factories, the top management and supervisors are often from China, office staff members are Thai, and the majority of workers are from Burma. The Chinese management and supervisors cannot speak Thai or Burmese; Thai office staff do not speak Burmese; and the Burmese workers cannot speak any of the management languages. If they communicate at all, it is in poor English – allowing great potential for the management to manipulate the workers.

Aside from the bonded nature of the workers' status in the factories, they are often indebted to the 'job smugglers', and exploitation is manifest in all other labour matters, including excessive overtime, dangerous working environment, shockingly low salaries (including forcing workers to sign false salary statements) and physical, including sexual, abuse.

The employers do not allow formation of trade unions or collective bargaining. The employers are part of a culture of corruption and intimidation, and they even hire gangs to keep the Burmese workers in check and prevent unionisation. There are close connections between the factory owners in Tak Industrial Chapter and the Labour Protection Office; the two even share the same building (!)⁷⁶. The Burmese workers are mostly ignored and even counterworked by labour protection officers. The Tak Industrialists have also hired local gangs to deal with 'troublemakers', i.e. Burmese workers trying to organise strikes and collective bargaining.

Workers are not given freedom of movement in the Mae Sot area. Most gates are locked in the evening and some factories have also introduced electric and barbed-wire fences to prevent workers from sneaking out of the factory compound. This situation also means emergency evacuation is very difficult.

Most employers hold the workers' original work permits, and so workers do not have access to health services, and are subject to deportation, extortion and harassment, as police and immigration officials do not accept the photocopy the workers are given. The employers have also established a blacklist system where 'troublemakers' are identified and names are sent around to the different factories, making it virtually impossible to get a new job.

⁷⁴ "East and Southeast Asia Regional Labor Research Report", Nina Ascoly and Ineke Zeldenrust 2003:38.

⁷⁵ Meeting with the president of the Social Venture Network, Prida Tiasuwan in Bangkok, spring 2004.

⁷⁶ "Burmese Migrant Workers in Mae Sot, Thailand. General Overview." Dennis Arnold, Thai Labour Campaign and SE Asia Researcher-Asian TNC Monitoring Network 2004

Because of threats of relocation, footloose capital and the fear of deportation, job insecurity in Mae Sot is high. An argument used frequently to quell labour disputes in Mae Sot and elsewhere⁷⁷ by the employers is to tell workers that clients will place their contracts elsewhere if the factory becomes less competitive.

Box 4: Example of business rationale for sub-contracting in Thailand

The opinion of a former manager of Bed & Bath Prestige concerning the increasing employment of Burmese workers is, "I think Bed & Bath will find their business solution through the use of sub-contractors in Mae Sot. They cannot continue in Bangkok because each order received from overseas buyers only generates small profits considering the high wages in Bangkok. Thus the company plans to distribute orders to sub-contractors in Mae Sot. There wages are low and other expenses are also very low, this is the only way the company can survive and make profits. And in the future it is possible that the company will open factories there because there are plenty of cheap Burmese workers. Bed & Bath just started sending work to Mae Sot when it first moved to Prapadaeng."

It has to be said, though, that the competition for brand contracts in the race to the bottom also puts strong structural pressure on the factory owners, see box 3.

⁷⁷ Quoted in "East and Southeast Asia Regional Labor Research Report", Nina Ascoly and Ineke Zeldenrust 2003:10.

PART III

AGENDA FOR ACTION

1. GENERAL RECOMMENDATIONS

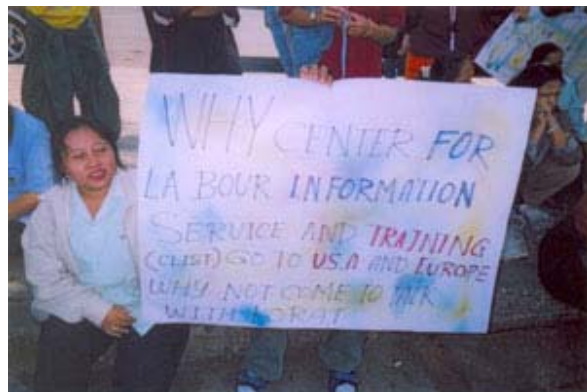
1.1 UPHOLDING TRADE UNION RIGHTS.

"We formed a union because we wanted better living conditions and better wages!" Samai Kongtalei, dismissed president of MSP Garment workers union.

Samai is the union president at MSP Garment Co Ltd, which produces mainly for Nike. She has twice been dismissed, along with two other committee members, for her involvement in organising a union in the workplace. Campaigns asking Nike to pressure MSP to respect union rights elicited cynical PR responses from the MSP management: recently, the company transported over a hundred workers to protest outside the provincial governors' office, with posters in English supporting the management's actions.

Such divide and rule strategies to undermine unions have prevented many attempts by workers to organise, and they indirectly discourage and threaten workers from organising themselves and demanding collective bargaining agreements.

It is estimated that only 5% of workers in the garment and textile sectors worldwide are unionised. It is, however, not the free choice of the other 95% of workers to be without a union; forming and joining a union causes all kinds of trouble for workers through suppression by management and state authorities. The International Confederation of Free Trade Unions (ICFTU) reports:



Between 100 and several hundred trade unionists are killed each year.

Several thousand more are beaten in demonstrations, tortured by security forces or others, detained, and often sentenced to long prison terms.

Each year, hundreds of thousands of workers lose their jobs merely for attempting to organise a trade union.

Throughout the world, millions of workers, often women and children, are forced to work against their will. The ICFTU fights against forced labour wherever it occurs.

In many countries, workers are discriminated against for political, ethnic, religious or other reasons. The ICFTU seeks to hold to account governments and employers that are responsible for such actions.⁷⁸

The race to the bottom of neo-liberal trade and investment policies denies workers around the world decent living conditions. There are many universal instruments to protect labour and human rights, the environmental or health and safety in the work place, such as the existing United Nation Declaration on Human Rights, the Conventions of the International Labour Organization or the Corporate Social Responsibility model of voluntary codes of conduct of corporation.

However, as the political right to form or join unions of ones own choice is directly and indirectly violated by employers and manufacturers around the world, corporations often turn a blind eye to the violations, or fail to take remedial actions.

Freedom of association is central to the demands of every campaign for labour rights, including Oxfam International's Make Trade Fair campaign, the Play Fair at the Olympics Campaign, and those of workers in all producing countries like

⁷⁸ ICFTU, Trade Union Rights, <http://www.icftu.org/focus.asp?Issue=tur&Language=EN>

Thailand, Indonesia, Sri Lanka, Bangladesh, Pakistan, China and Cambodia, to name but a few. By exercising freedom of association and the right to collective bargaining, workers can turn suffering into dignity.

1.2 NEW STRATEGIES FOR CAMPAIGNING: TRIANGULAR SOLIDARITY

Concerned activists and unions in the North organise consumer campaigns to help convince brands to take responsibility and put serious pressure on their suppliers to respect the rights of workers. Thus brands' codes of conduct are crucial in terms of putting brakes on the race to the bottom. Many campaigns in the early 1990s focused on pressuring global brands to respect trade union rights on a case-by-case basis, and focused on implementation and enforcement of such codes of conduct in a top-down approach.

More recent consumer campaigns are seeking to uphold the freedom of association by trying to hold more stakeholders to account, including small brands, global supplier agents, governments and brands' customers such as the International Olympics Committee and famous Olympics athletes.

Many of the consumer campaign movements both in Europe and the US are organised by labour advocates and unions. The nature of both US and EU consumer campaigns are based on mobilising popular membership; the EU trade unions are also unique in that they may build alliances across the European continent. The Clean Clothes Campaign has affiliates in 13 countries in the EU that can independently run activities and join the international call of the CCC secretariat in Amsterdam.

The Triangular Solidarity Model has been developed by Asian Monitor Resource Centre in cooperation with Thai Labour Campaign as a way to build solidarity and support among consumers and producing countries on a 'rights based approach' strategy.

The poor cannot be 'fed' by others forever – there is neither dignity nor sustainability in such a charity-based approach. The sustainable solution is to open political space so that the poor may be empowered, stand up for their own rights and thus 'feed themselves'.

This means that global campaign advocates and unions should focus on upholding workers' rights in the producing countries, so that they may themselves exploit their collective bargaining power towards decent working⁷⁹ and living conditions with job security for themselves and thus enhanced well being for their families.

Governments in the South trade off labour rights to promote foreign investment under multilateral, bilateral or regional trade agreements. But few campaigns have been designed to stop governments in the South competing with each other in attracting sweatshop investment and employment. The Triangular campaign model helps to address this problem more effectively: Global Unions, Northern campaign organisations and the Asian TNC Monitoring Network and labour advocate organisations help to facilitate communication between workers and global actors and among workers themselves across countries.



Behindthelabel website is the consumers/ members campaign for labour rights around the world. Website of UNITEHERE

⁷⁹ The ILO promotes the concept of 'decent work'

South-South solidarity

First generation consumer campaigns were typically based on organisations in the North campaigning to ensure that Northern brands would help uphold trade union rights and reinstate dismissed union leaders and members. The Jagalanka settlement memorandum⁸⁰ is an example (see memorandum below).

However, it is important to facilitate South-South worker exchanges and solidarity to end negative competition among workers in the South, which governments and industry actors play upon to deter workers from standing up for their rights and building upon their collective power. Only once workers understand the way in which the 'race to the bottom' phenomenon pits them against each other, and start working together within regional and global movements, can their indignity end. No country in the South can sustain good labour practices and simultaneously retain a fair share of trade and investment flows if other countries at the same time renege on their obligations to enforce labour laws.

The present situation in which workers in the South have been pitted against one another to compete among themselves is intolerable. In the era of weak states, workers in the South work together to stop the race to the bottom.

Memorandum of Settlement

Between

The Free Trade Zone Workers Union
141, Ananda Rajakaruna Mawatha Colombo 10

And

Jaqalanka Ltd, Katunayake

It is hereby agreed between the Free Trade Zones Workers Union (FTZWU) and Jaqalanka Ltd, Katinayake that the dispute over union recognition be settled on the following terms:

The FTZWU, for its part-

1. Seeks acceptance by Jaqalanka Ltd as the representative of FTZWU members concerns.
2. Agrees to respect the right of workers to form and join, or not, organizations of their own choosing.
3. Agrees not to harass, victimize, discriminate against or otherwise subject non-union workers to any unfair practices.
4. Reserves the right to resume the international campaign if the good faith understandings reached herein are not respected by the company, subject to the union exhausting all procedures for the resolution of disputes set out in this agreement.
5. The FTZWU agrees to request that the complainants suspend their complaint (dated 21 July 2003 filed by the ICFTU and 22 September 2003 filed by the ITGLWF) to the ILO Committee on Freedom of Association pending the successful outcome of the review after six months as provided for in this agreement, which period will begin on the signing of this agreement. If the parties agree that the real progress has been made towards ensuring freedom of association at Jaqalanka Ltd the FTZWU will request that the complainants amend their complaint to remove all prejudicial reference to Jaqalanka ltd.

The Jaqalanka Ltd, for its part –

1. Accepts the FTZWU as the representative of FTZWU members concerns.
2. Agrees to respect the right of workers to form and joint, or not, organizations of their own choosing.
3. Agrees that no workers or union members will be harassed, victimized, discriminated against or otherwise subjected to any unfair labour practices.

⁸⁰ There are many solidarity campaigns to support the Jagalanka workers struggle lead by the Free Trade Zone Workers union in Sri Lanka. More information can be found in the website of Clean Clothes Campaign, ITGLWF, ICFTU and ACILS.

The Asian Transnational Corporation Monitoring Network (ATNCs) is a coalition of 11 Asian and Latin American labour organisations from Korea, Japan, Taiwan, Hong Kong/China, Thailand, Cambodia, Philippines, Indonesia, India, and Central America, with partners in Sri Lanka, Bangladesh and Pakistan. The ATNC Network is working together in the triangle solidarity model through seminars, workers exchanges, research and education.

For the first time, three main labour rights actors and development organisations are working together under the Play Fair at the Olympics Campaign. This global union, including the ICFTU and ITGLWF, Clean Clothes Campaign and Oxfam International have been working with their members, alliances and partners in many countries to raise the concern of Olympic actors, especially sportswear brands, athletes and the International/national Olympics Committees to accept the exploitation and violations that workers making sporting goods around the world face. They request the IOC to include codes of conduct in its licensing.

Even though the IOC has not yet paid enough attention to the Play Fair at the Olympics campaign, many believe that the upcoming Summer Olympics in China may provide an opportunity for breakthrough. China is the world's biggest manufacturer of sporting goods. Meanwhile, China's willingness to allow – let alone support – freedom of association of workers is being seriously questioned by global unions and labour advocates. Will the IOC be able to ignore the biggest ever coalition at the China Olympics?



1.3 KEY DEMANDS OF WORKERS IN THE SOUTH

Every government must ratify and implement ILO Conventions 87 and 98 that guarantee the essential trade union rights: freedom of association and the right to collective bargaining.

Corporations must change their supply chain management to include long-term contract commitments to unionised factories that guarantee labour rights, protection of workers' dignity, and pay living wages that enable workers to look after themselves and their families.

Governments must enforce the relevant laws and protect job security and welfare of workers and their families.

The monitoring of brands' codes of conduct and manufacturers' compliance with these must integrate union or workers' representatives at all levels, in all stages of the process, alongside external monitoring of the situation by consumer organisations.

Improve the international legal frameworks, enforcement mechanisms and codes of conduct to guarantee the implementation of universal labour protection and welfare of workers and their families.

⁸¹ More information can be found at www.fairolympics.org



1.4 CONCLUSIONS

There is a Thai proverb that says: "If you go into the jungle alone, you will never return. If you go with a friend, there is a chance. However, if three people go together, you will return home safely".

Neo-liberal trade policy allows the top 20% of the global population considerable wealth and rights attainment. 80% of the world's population remains poor and voiceless. It is important that triangular solidarity is built in order to counter-balance increasing corporate power, and ensure that people come before profit. As long as they do not enjoy the right to freedom of association, workers in the global clothing manufacturing sector will continue to suffer under precarious working conditions.

The Human Rights Charter of the United Nations states that every human being is equal. But this holds true only in principle. It is our common responsibility to uphold human rights by jointly struggling for workers' real opportunities to let their collective voice be heard and to thus overcome their victimisation. Workers throughout the world are living in fear and uncertainty. We cannot be happy about paying for and wearing clothing products unless the workers who make them are happy as well.

Only through struggle on the local level with support at both regional and global levels can we overcome the race to the bottom. Workers will still have to occupy buildings of government authorities in order to make their voices heard, face dismissals, violence, harassment and economic sanctions by the state and employers simply for speaking up. But from this hardship they will also learn: "From a dumb worker who just does routine work in the factory, today I know what our rights are. I had never heard of a labour protection law, but now I know" (a former Bed and Bath worker). After 3 months of struggle, former Bed and Bath workers set up a "Solidarity Group", producing high quality T-shirts proudly labelled: 'Dignity Returns'.

2. ENDING EXPLOITATION OF BURMESE MIGRANTS IN MAE SOT

Given the lack of international regulations on multinational companies, a change in the current situation for migrant workers in Mae Sot and Thailand must have its starting point in the production network and the enforcement of national labour law. Both a top-down and a bottom-up approach must occur simultaneously. The ones responsible for the grave abuses of Burmese migrants, that is, business actors and authorities at local and national level and, as soon as possible, global level, must be held accountable and must 'dignify' working conditions. At the same time, workers must have the right to form unions and gain collective bargaining power.

2.1 ORGANISING WORKERS

There is a need to go beyond the market-based incentives embracing consumers in the North to a union-based system involving the workers that actually produce the garments. In Mae Sot, export processing zones (EPZs) and in other places around the world where garments are made, it is usually difficult for workers to organise and to bargain collectively. As mentioned above, Burmese workers in Thailand are extremely vulnerable because of the threat of deportation or intimidation. The employers also blacklist 'troublemakers', i.e. workers who try to organise unions or wildcat strikes.

Burmese workers cannot form their own unions, but they can be members of Thai unions. The problem is that in Mae Sot there are no Thai unions. Also, some of the Thai unions are reluctant to have Burmese members. Because of this, solidarity workers' organisations have been set up in Mae Sot to educate, help and silently organise Burmese workers under very dangerous circumstances. Strikes have been organised, and employers have been taken to court. Recently workers in Nut Knitting in Mae Sot won a landmark victory, gaining compensation for years of exploitation.

2.2 PRODUCER-COUNTRY REGULATION

The state has an obligation to enforce labour laws. This is not done in Thailand. International pressure is needed. The state must secure the workers' ability to negotiate higher wages and better standards than the absolute minimum. There

must be a change in legislation to protect the migrants in Mae Sot. In particular, Burmese migrant workers must have the opportunity to form unions, and take leading positions in Thai unions.

2.3 GLOBAL REGULATION

Because sourcing will always be carried out to generate profit and lower production costs, there will be a discrepancy in what is good for business and what is good for society. In the race to the bottom, the temptation and downward pressure to exploit the weak worker protection structure is considerable. And the only mechanism for responsibility is to 'name and shame' offenders. Such campaigns are governed by consumer demand, are sporadic and ad-hoc, and have limited resources to provide evidence, long-term follow-up and support the workers' fight for justice. As voluntary corporate social responsibility through codes of conduct is not enough, shown for instance by the case of Mae Sot, there is an urgent need for global regulation of companies.

Development of a universal law for companies is still in an early stage. In 2004, a preliminary text for a (possible) convention – UN Human Rights Norms for Business - was discussed in the Human Rights Commission, and further mapping was approved. The Christian Aid campaign asks that this code first becomes a part of international law before being incorporated into national law.

Social clauses in the World Trade Organisation (WTO) have been discussed as a way of regulating global sourcing. This means levying trade sanctions against export countries that attain competitiveness through 'social dumping'. The idea is that countries that comply with the ILO conventions will not lose out in competition.

It is difficult to say what this will mean in the Thai context. In principle it would level the ground between Burmese workers and Thai workers according to Thai labour law. The main problem in Thailand, though, is not the law, but rather law enforcement. Of course, social clauses will place more external pressure upon Thailand to enforce the law on behalf of Burmese workers. But rich countries can also use social clauses as protectionist measures. Thailand is a garment producing country and can be hit by protectionism pushed forward by a US garment sector in crisis.

2.4 CONSUMER-COUNTRY REGULATION

The race to the bottom creates power dynamics under which producer countries' governments and companies fear they will be commercially punished for upholding cost-incurring labour laws. Meanwhile, rich countries capacity to enforce their laws is solid. This observation has led to campaigns that call for mechanism by which the multinational companies can be held to account *under their home legislation* for complicity in labour law violations abroad. A prominent initiative to this effect is the British Company Bill Initiative. However, the initiative focuses primarily on companies with foreign direct investment in production sites, rather than those relying on outsourcing.

As mentioned above, one of the major problems in the sourcing economy is identifying which company is the actual lead firm, and who bears the responsibility of the workers that make the garments. An analysis of which are the actual lead firms and the different responsibilities in the production network is much needed to secure the rights of the workers. Transparency in the production of garments is required so that consumers and rights groups – and, in the end, authorities – can put the heat on brands, agents and factory owners when rights violations are disclosed.

In Norway, positive experiences have resulted from opening the public import databases. In 2002, NCA convinced the customs authorities to disclose which companies were importing garments from Burma; more than 100 Norwegian Burma importers were caught out, and, consequently, brands like Kookai and Miss Sixty pledged to stop sourcing from Burma. By the end of 2003, Norwegian garment imports from Burma had decreased by 40 per cent compared to the year before.

NCA is currently campaigning for greater transparency in imports with regard to actual production sites (rather than country of origin). More knowledge about what garments are produced where is necessary if any public accountability in the global garment production is to be established. Transparency may be achieved either by means of legal obligation on the part of brand companies, importers and retailers to themselves provide consumers with information on where and how their garments are produced, or by means of a mechanism by which a multi-stakeholder ombud (of the OECD contact point type) – on the basis of a human rights complaint against a specific producer in the south – can access existing public import databases to determine whether the producer is selling garments to companies in the importing country.

Another market-oriented mechanism for improved accountability is targeted public procurement. In Norway, public procurement exceeds US\$ 10 billion a year, a substantial figure. Public procurement can be a powerful tool to give importers incentives for ethical behaviour. Importers gain a competitive edge because of their ethical guidelines and their compliance.

But transparency and public procurement are not enough to secure workers' rights; sourcing companies must make a move from measuring (non-) compliance to facilitating improvements where the workers and their organisations have to be directly involved.

The constellation of strong employers and weak employees in the context of extreme competition for contracts, combined with non-enforcement and corruption on the part of the Thai authorities, provides the foundation for extreme worker exploitation by factory owners, which in turn is exploited by agents and brands to keep production costs low. This is clearly evident in Mae Sot.

GLOSSARY OF TERMS⁸²

ATC: Agreement on Textiles and Clothing. This WTO agreement replaced the MFA on January 1, 1995 valid until January 1, 2005. This is intended to be a transitional tool to facilitate the liberalisation process that seeks to enlarge existing quotas until they are totally removed.

Brand name companies: Companies that own one or more brands. In the context of the garment industry, brand name companies carry out marketing and sometimes design functions for their products. Usually they contract (or source) with manufacturers (referred to as suppliers or vendors and subcontractors) to carry out the actual production of the garments. Brand name companies may own a few manufacturing units for key products (e.g. Levi Strauss). Brand name companies may also be major retailers (e.g. department store chains or own a few stores in key areas for market development (e.g. Nike).

Buyer: The person (purchasing agent) who purchases goods for a company, such as a brand name company. The term is used to refer to the employee of a company who carries out the buying task, but is sometimes used to refer to the actual company, also referred to as sourcing company, that seeks to purchase the goods (as in, "Nike is one of the buyers at Factory X").

Buying agents: Businesses that locate and inspect foreign suppliers/manufacturers, negotiate with suppliers/manufacturers, and often monitor production for quality control and compliance with other requirements. Sometimes they also locate and arrange for the purchase of raw materials (in this context this function is sometimes referred to as sourcing). Buying agents may be used by foreign companies that do not have a large presence abroad (for example, those companies that do not have buying offices outside their home countries), or in addition to a foreign company's buying staff. A buying house performs similar functions as a buying agent but is usually a larger operation.

Garment (or clothing, apparel) production: Production of garments, as distinct from textile or yarn production and refers to the processes that take place after a piece of cloth has been produced. Traditionally, the textile-garment industry has been horizontally structured with the manufacture of cloth and the manufacture of clothing being separate and distinct. The flow sequence begins with fiber (textile) producers and farmers supplying raw material to yarn manufacturing plants, which in turn sell yarn to weaving and knitting facilities. Manufactured fabric (either woven or knitted) is then sold to a fabric finisher, and then sold to the garment manufacturer. The phrase 'from sheep to shop' is used to refer to garment production when the textile or yarn phase of production is included. In the textile and garment industries, operations can be wholly integrated – meaning that one company is in charge of all phases of production. In practice garment production units (whether manufacturers, suppliers, or subcontractors) can be more or less integrated into the textile industry, depending on the type of garment they are producing, the region, or historical processes. For example, part of the finishing or the knitting may be done in-house at the garment factory.

Generalized System of Preferences (GSP): Tariff preferences for developing countries, by which developed countries let certain manufactured and semi-manufactured imports from developing countries, enter at lower tariffs than the same products from developed countries.

Living Wage: A wage that provides for basic needs (housing, energy, nutrition, clothing, health care, education, potable water, child care, transportation, and savings), includes additional discretionary income, and takes into consideration dependents. There are two main approaches to quantifying a living wage: the simpler 'formula approach' (which uses a formula that is usually calculated on the basis of average household size, cost of basic needs per person and savings, or on a fixed proportion of the national median wage) or a 'negotiated approach' based on consultations with workers, which allows definitions to be tailored to local circumstances but is problematic when unions are weak or suppressed.

Manufacturers: In the context of the garment industry, these are companies primarily engaged in the design, cutting, sewing, and trimming of fabric to make and also package garments. Their clients can be retailers, merchandisers, brand name companies or their intermediaries (agents, buying houses, or importers). Generally, manufacturers are responsible for purchasing raw materials (textiles, yarn, accessories) but it is also possible that buyers or their intermediaries do this. Larger manufacturers often contract out production to many subcontractors, both locally and abroad. Some

⁸² From "East and Southeast Asia Regional Labor Research Report", Nina Ascoly and Ineke Zeldenrust 2003.

manufacturers are vertically integrated, meaning that they produce the textiles from which they make garments, or even operate retail outlets.

MNC: Multinational corporation.

Multi-Fiber Arrangement (MFA): An agreement negotiated in 1973 among developed country importers and developing country exporters of textiles and apparel to regulate and restrict the quantities traded.

Retailers: Companies primarily engaged in the sale of products (in this context, of garments) to consumers; they are also involved in distribution and merchandising of the goods. Apparel retailers include department stores, mass merchandisers, specialty stores, national chains, discount and off-price stores, outlets, and mail order companies. Some retailers who sell their own private labels go beyond their traditional role as distributors and act as sourcing companies and become directly involved in the design and sourcing of garments from manufacturers and suppliers.

Sourcing: To locate a manufacturer or supplier to produce or supply, in this context, garments of certain specifications or the raw materials needed for garment production.

Sourcing company: Company that places an order with an agent or a supplier/vendor.

Subcontractors: Company hired by the manufacturer or the supplier to carry out part of the process of cutting, making, or trimming. Subcontractors usually receive the necessary materials from the company that gives them the order.

Suppliers: Companies primarily engaged in the cutting, making, trimming, and packaging of the garments they do not design, sometimes also referred to as vendors. Otherwise, their function is the same as that of manufacturers. While these tasks can be the same as those assigned to a subcontractor, usually the term supplier is reserved for companies in the first tier of the subcontracting chain; lower down it becomes a subcontractor (or sub-sub contractor). The term contractor, which refers basically to the same function as supplier, is used less often.

Supply chain: The network of facilities that procure raw materials, transform them into intermediate goods and then final products, and deliver the products to customers through a distribution system. For the purpose of code monitoring and verification, the garment supply chain ends where garment production ends and therefore, though it does include the procurement of materials (organized by garment manufacturers/ suppliers), does not include the manufacture of textiles, yarn, fibres or accessories such as zips or buttons. Equally, the sports shoe supply chain does not include the production of components. Some people argue that the use of the term 'chain' suggests a linear relationship that does not, in fact, exist and therefore prefer to use the term 'supply network'.

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