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Finnwatch

The long road to respecting labour rights

Tracing company responses to allegations of abuse in their supply chains

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Finnwatch is a non-profit organisation that investigates the global impacts of Finnish business enterprises. Finnwatch is supported by eleven development, environmental and consumer organisations and trade unions: the International Solidarity Foundation (ISF), Kepa, Kehys – The Finnish NGDO Platform to the EU, Pro Ethical Trade Finland, the Trade Union Solidarity Centre of Finland SASK, Attac, Finn Church Aid, the Dalit Solidarity Network in Finland, Friends of the Earth Finland, the Consumers' Union of Finland and the Finnish Evangelical Lutheran Mission FELM.

Migrant Worker Rights Network (MWRN) is a migrant worker membership based organisation with offices in Thailand and Myanmar that seeks to empower migrant workers and ensure their access to rights and a good quality of life. MWRN is supported by international development organisations and global union federations amongst others and works closely with Thai businesses and industry associations to address migrant worker conditions in Thailand.

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1 Introduction

Allegations of human rights abuse in the production of common consumer products regularly make the headlines. Much less attention is directed to what companies do to address possible adverse human rights impacts that they have caused or contributed to, or that they are linked to through their business relationships.

The alarming headlines are of no use if they do not lead to changes for the better. The purpose of this publication is to make visible both the range of actions that companies can take to prevent and mitigate adverse human rights impacts and the reach of the results that such actions can have.

This publication introduces two case studies – one on OneMed, a supplier of medical supplies which markets medical gloves manufactured by Siam Sempermed in the Nordic countries and the other on grocery retailers Kesko and S Group, whose private label tuna products are manufactured by Thai Union. In both case studies the companies featured have sought to address labour rights problems in their supply chains through various means, including social audits, dialogue with their suppliers, and in-depth engagement with NGOs and workers' rights groups. These are detailed in case-specific timelines in this publication. As such, this publication is intended to provide encouragement and examples of good practice to other companies in similar situations.

This publication is produced as part of Finnwatch and Migrant Worker Rights Network's (MWRN) three-year collaboration project aimed at empowering migrant workers to negotiate better terms of employment and working conditions in Thailand's export industries. MWRN is a membership based migrant workers' rights organisation with offices in Yangoon in Myanmar and in Mahachai and Hat Yai in Thailand and a long-time partner of Finnwatch. The joint project between the two organisations is funded by Finland's Ministry for Foreign Affairs.

A Thai Union Manufacturing (TUM) employee holds a can of Rainbow-tuna, made by Thai Union.

2 CASE: Siam Sempermed/Sri Trang Gloves

In 2014, Finnwatch published a report "*Caring for hands, not workers – Labour conditions in the Siam Sempermed factory, Thailand*"[1]. The report brought to light labour rights violations in the production of medical examination gloves in Thailand. At the time, gloves manufactured in the investigated factory, Siam Sempermed (located in Songkhla in southern Thailand), were being used by the public health care providers in Finland, Norway and Great Britain among others. The publication of the report prompted an intense debate about socially responsible public procurement.

Before the publication of the report "*Caring for hands, not workers*", Finnwatch sent the research findings to Semperit, the Austrian co-owner of the Siam Sempermed factory at the time, for comment. Semperit responded in a few words only, disputing all of the field research results. According to Semperit, the information gathered in worker interviews was "*speculation and hearsay*". The company actively objected to the publishing of Finnwatch's report.

Semperit also told to Finnwatch that Siam Sempermed factory had been Amfori BSCI[2] audited in March 2013. According to the company, the audit did not reveal any illegal practices and the few non-compliances related to international labour rights standards identified during the audit were 'minor'. Amfori BSCI audit reports are not public and Semperit did not share the audit report with Finnwatch. Amfori BSCI, however, refuted information provided by the company, saying that "*(Semperit) statement does not reflect the findings gathered through the Amfori BSCI audits and therefore puts the credibility of Amfori BSCI in question*".

After the publication of the report, Finnwatch began a close dialogue with Semperit and OneMed, the company that markets Sempermed brand medical gloves[3] in the Nordic countries. OneMed took action to follow-up on the report findings. In 2015, Finnwatch published a second report[4] on the working conditions in the Siam Sempermed factory. Although some of the problems exposed in the Finnwatch's 2014 report were found to have been fixed, the follow-up report also provided details about the continuing violations of migrant workers' rights in the Siam Sempermed factory. These included the confiscation of employee passports and illegal salary deductions.

This document details the dialogue between Finnwatch, Semperit and OneMed since the publication of Finnwatch's initial report in March 2014 and provides a snapshot of the current situation at the Siam Sempermed factory. The factory is now known as Sri Trang Gloves following the demerger of the joint venture between Semperit and the Thai company Sri Trang in 2017[5].

OneMed continues to buy Sempermed brand gloves from Semperit. Following the demerger, Semperit has outsourced some of the production of Sempermed brand examination gloves to Sri Trang. In addition to the factory in Hat Yai, Songkhla province, Sri Trang has another factory in Thailand in the province of Suratthani. In 2016, approximately 40 % of Sempermed brand examination gloves marketed by OneMed were manufactured at the Siam Sempermed/Sri Trang Gloves factory in Hat Yai and in 2017, 27 %. The rest were manufactured either at the Sri Trang Gloves factory in Suratthani or by Latexx Manufacturing in Malaysia.[6]

1 Finnwatch, 2014, Caring for hands, not workers – Labour conditions in the Siam Sempermed factory, Thailand, available at https://www.finnwatch.org/images/semperit_en1.pdf

2 Business Social Compliance Initiative (BSCI) is a social auditing scheme owned by Amfori. Amfori was previously known as Foreign Trade Association (FTA). It changed its name at the beginning of 2018. Semperit is an Amfori BSCI member.

3 Sempermed is a segment of the Semperit Group and a manufacturer of medical (surgical, examination and protective) and industrial gloves. OneMed markets Sempermed brand surgical gloves (which are made in Austria) in all Nordic countries and examination gloves (which are made in Thailand and Malaysia) mostly in Finland but also in Norway.

4 Finnwatch, 2015, Socially responsible medical gloves? Follow-up report on the working conditions at Siam Sempermed, available at https://www.finnwatch.org/images/pdf/Semperit_FU_EN.pdf

5 Semperit, 18 January 2017, Semperit and Sri Trang sign an agreement on the demerger of the joint venture Siam Sempermed, https://www.sempermed.com/en/news/press-releases/detail/?cHash=8e7cc4bd59264a0fa80cd4367bb30ac9&tx_ttnews%5Btt_news%5D=1847 (accessed on 16 February 2018)

6 OneMed, Julien R., email on 28 February 2018

"My normal working hours are from 7am to 4pm but on 3 or 4 days per week, I start working at 5am or 6am in order to fulfil the quota. It is dangerous to come to work in the early morning hours. There are many thieves operating in this area who try to take your money or your phone." – a Sri Trang Gloves worker, 29 years old

2.1 TIMELINE OF DIALOGUE AND OTHER ACTIVITIES[7]

2013	Finnwatch was informed about poor working conditions at Siam Sempermed complex at the end of 2013. Finnwatch promptly contacted Semperit and informed the company about the reported labour rights violations, urging the company to investigate serious claims made against Siam Sempermed.
January 2014	Local researchers assisting Finnwatch reported that there had been no improvements in Siam Sempermed's labour conditions. Since no progress was evident from non-public dialogue, Finnwatch decided to conduct further field research into factory conditions.
30 March 2014	Finnwatch published its report "*Caring for hands not workers – Labour conditions in the Siam Sempermed factory, Thailand*". According to the workers interviewed for the report, Siam Sempermed forced its packing department workers to work long overtime hours, paid them illegally low wages and prevented them from taking holidays. The gloves manufactured at Siam Sempermed were used in numerous Finnish hospital districts. Siam Sempermed's other owner, the Austrian company Semperit, disputed all the report's findings.
4 April 2014	OneMed, the company that markets Semperit's medical gloves in the Nordic countries, informed its Finnish customers about the report's findings, saying that they intend to cooperate with Finnwatch and that they will arrange an independent audit to the Siam Sempermed factory to clarify the allegations and to ensure proper working conditions.
20 May 2014	Finnwatch and OneMed met in Helsinki. Topics discussed during the meeting included the findings of Finnwatch's report and OneMed's own corporate responsibility practices. OneMed shared its action plan on the Siam Sempermed case which included an audit of the factory planned for summer 2014.

7 This timeline was originally published in part in the Finnwatch report "*Socially responsible medical gloves?*"

21 May 2014	Finnish trade unions Tehy – The Union of Health and Social Care Professionals in Finland and the Trade Union for the Public and Welfare Sectors JHL organised a demonstration by the name of Hanskat naulaan ("Hang up your gloves") to protest against unethical public procurement. JHL and Tehy members, who work in hospitals and healthcare centres, said that they did not want to use gloves that were manufactured in conditions that threatened the health of the people making them and violated labour rights.[8]
23 May 2014	Semperit published the results of a newly commissioned Amfori BSCI audit conducted by SGS. According to Semperit, the audit verified that the factory now complied with 99 % of the Amfori BSCI's criteria. During the audit, the factory had only received criticism for the amount of overtime work it required from its workers.[9]
3 June 2014	OneMed notified its Finnish clients of the results of Siam Sempermed's Amfori BSCI audit offering to share the full audit report.
5 June 2014	OneMed commissioned Intertek to conduct audits at Siam Sempermed: an off-site audit focusing on issues raised as problematic in the Finnwatch's report and an on-site Working Conditions Assessment WCA. The off-site audit was to include off-site interviews with workers, interviews with local NGOs as well as interviews with migrant workers and those working at the packing department. During preparations, comments from Finnwatch were taken into account.[10]
9 June 2014	Finnwatch conducted new worker interviews in Thailand. Nine workers from the packing department said that their working conditions had slightly improved after Finnwatch's first report had been published; for example, workers now received payslips and employment contracts in their mother tongue. However, many problems still continued to prevail with packing departments workers reporting high document costs, unreasonable production targets and related pressuring. Finnwatch did not publish these findings but rather asked Semperit to comment on them.
23 June 2014	Finnwatch, the Trade Union Solidarity Centre of Finland SASK, Semperit and OneMed met in Helsinki. During the meeting, the participants discussed the problems still prevalent at the Siam Sempermed factory and the results of the recent Amfori BSCI audit.
17 July 2014	Semperit published a press release in which it outlined the problems observed at Siam Sempermed factory. According to Semperit "*in recent times, from Semperit's point of view, the partnership has no longer been able to fulfil current requirements for increased transparency as well as the necessary objectivity, corporate governance and accountability of management decisions*."[11]
13 August 2014	During the Intertek off-site audit commissioned by OneMed, migrant workers from Siam Sempermed (20 people, mostly from the packing department) were interviewed by Intertek auditors outside the factory premises, as well as the local NGO Stella Maris. Intertek's own interpreters were used during the interviews.

8 JHL, Hanskat naulaan -mielenilmaus TYKSissä: suojakäsinehankinnat syyniin epäinhimillisten työolojen takia, http://www.jhl.fi /portal/fi /jhl-tieto/uutisarkisto/?bid=4218 (accessed on 4 August 2015)

9 Semperit's letter to its business partners, 23 May 2014

10 Finnwatch email to OneMed about an earlier Amfori BSCI audit, 5 June 2014: "*the re-audit was very short and it seems that there was not a lot of interest to find any problems that we had reported (no off-site interviews, no stakeholder consultation, very little Myanmar workers interviewed, no special focus on packaging department from where problems were reported)*"

11 Semperit, 17 July 2014, Semperit Aims to Realign Its Joint Venture in Thailand, https://www.sempermed.com/en/news/press-releases/detail/?cHash=32e48cf33d043621564d82a8515ff726&tx_ttnews[tt_news]=1141 (accessed on 16 February 2018)

14 August 2014	Semperit sent brief responses to Finnwatch concerning some of the problems Finnwatch highlighted in June. The company confirmed that Siam Sempermed now recruits more Cambodian workers, denied confiscation of workers' passports and said that the high document costs paid by workers reflected the current market rate.
14–15 August 2014	A Working Conditions Assessment WCA in line with the Intertek audit model, commissioned by OneMed, was conducted at the Siam Sempermed factory over two days. During the audit, 40 workers were interviewed using Intertek's own interpreters. In addition, the auditors visited production facilities and factory-owned dormitories for workers.
September 2014	OneMed shared the Intertek audit reports with Semperit and asked for a corrective action plan addressing all the findings as well as for Semperit's permission to share the audit reports with its customers. Semperit said that it takes the findings seriously and will take action internally to solve the issues.
16 October 2014	OneMed informed its customers in Finland, Norway and Sweden of the Intertek WCA audit results. There was no mention about the results of the off-site audit but OneMed offered to share the audit reports with its customers upon request. One of OneMed's Finnish customers requested to be sent copies of the report.
6–7 November 2014	OneMed sent Finnwatch the Intertek audit reports. The report of the audit based on off-site interviews with workers confirmed findings listed in Finnwatch's report: workers said that the factory forced them to work overtime. However, the Intertek standard model WCA audit report gave the factory a clean record. Finnwatch met with OneMed in Helsinki and requested more information on the obvious contradictions between the two audit reports.
Winter 2014–15	Intertek provided clarifications on the contradictions observed in the audit reports[12] but Finnwatch considered them insufficient.[13]
14 January 2015	Semperit provided confirmation that the corrective Action Plan addressing findings of the WCA audit had been completed.
April 2015	Siam Sempermed factory was Amfori BSCI audited.
13 April 2015	Finnwatch and several European public buyers held a meeting concerning Siam Sempermed. The majority of buyers indicated that they had not been informed about the results of the audit based on off-site interviews with workers commissioned by OneMed and conducted by Intertek. Finnwatch promised to ask for a copy of the audit report so that the public buyers could see it.
24 April 2015	Finnwatch and OneMed representatives agreed on sending both of Intertek's audit reports to European public buyers.
Summer 2015	Contrary to what was agreed on, OneMed did not send the audit reports to European public buyers. Finnwatch sent OneMed a reminder and requested more information on the issue on numerous occasions between May and June but did not receive a response. OneMed later explained that this was due to workload issues.
Summer 2015	Finnwatch terminated dialogue with OneMed and Semperit on account of the lack of results and initiated new field research and worker interviews in Thailand.

12 Intertek, Guntita Suachom, emails on 27 November 2014 and 4 December 2014
13 Finnwatch, Sonja Vartiala, email on 16 December 2014

September 2015	Finnwatch sent the new field research findings to OneMed for comment. Finnwatch and OneMed resumed dialogue. OneMed and Semperit's responses were incorporated into the report before publication.
13 October 2015	Finnwatch published the report "*Socially responsible medical gloves? Follow-up report on the working conditions at Siam Sempermed*". Some previously reported problems at the factory had been fixed: workers were now given pay-slips and employment contracts in their own language, it was easier to obtain sick leave, and the factory no longer dismissed workers illegally. On the other hand, the factory still kept workers' travel documents, set mandatory performance targets, and deducted high documentation fees from migrant workers' salaries. On the day of the publication, OneMed uploaded the Finnwatch report and the two previous Intertek audit reports (off-site and WCA) and the related corrective action plan on to its Finnish website onemed.fi. Following the publication of the follow-up report, OneMed told Finnwatch that it will commission another social audit at Siam Sempermed to verify the allegations in Finnwatch's follow-up report. This was the third audit that OneMed had commissioned at Siam Sempermed since the publication of the first Finnwatch report in 2014. OneMed also visited Siam Sempermed factory and met with the factory management to discuss the Finnwatch follow-up report findings.
30 November 2015	Finnwatch shared with OneMed the contact information of its local partner NGO Migrant Worker Rights Network (MWRN) in Thailand. OneMed then introduced MWRN to the management of Siam Sempermed.
30 November – 1 December 2015	On behalf of OneMed and the NHS Supply Chain, an NGO Verité conducted A Foreign Contract Worker Assessment at Siam Sempermed. The audit focused on labour standards and the recruitment and management of migrant workers at the Siam Sempermed factory. During the audit, Verité interviewed a total of 98 workers – 88 migrant workers (of which 55 from Myanmar) and 10 local Thai workers – and reviewed personnel files, production and payroll records. The facility's recruitment and hiring, employee onboarding process, grievance mechanisms, performance evaluation, disciplinary and termination procedures were likewise reviewed.
December 2015	Finnwatch organised a roundtable "*Influencing labour rights in Thailand*" in Helsinki, attended by Amfori BSCI and OneMed among others (see also page 16). Issues such as responsible recruitment, social dialogue, supply chains and tier-2 monitoring were discussed. OneMed gave presentation of its activities in the Siam Sempermed case: cooperation with other buyers and multiple social audits. Compared to Finnwatch report findings, the on-site audits had produced very different results. According to OneMed participant, reasons that might explain the differences included the level of engagement with workers during audits, whether worker interviews were conducted on-site or off-site, and language issues.
7 December 2015	OneMed together with Norwegian public buyers' representative, visits Siam Sempermed.
15 December 2015	MWRN met with Siam Sempermed management in Hat Yai, Songkhla. Topics discussed during the meeting included risks involved in the recruitment of migrant workers and lack of migrant worker representation in the Siam Sempermed worker welfare committee.

December 2015 – January 2016	MWRN takes up a case of four migrant workers who had been dismissed from Siam Sempermed for not meeting their production targets. MWRN and Siam Sempermed settle the case, and the workers are assisted to new employment.
January 2016	Finnwatch and Semperit met in London during a roundtable organised by the British Medical Association. Representatives from Swedish County Councils and Regions and the Norwegian Sykehuspartner were also in attendance. During the meeting, findings in the Finnwatch follow-up report were discussed, and Semperit presented their new sustainability strategy.
February 2016	OneMed discussed the findings of the Verité audit it had commissioned at Siam Sempermed with Semperit. Semperit committed to establishing a remedial action plan addressing the audit findings. OneMed followed up the implementation of remedial action plan via desktop review until spring 2016.[14]
April 2016	Siam Sempermed factory was Amfori BSCI audited. The audit result was C ('Acceptable').[15]
20 April 2016	OneMed informed its Finnish customers about the Verité audit, offering to share the audit report and corrective action plan upon request.
January 2017	Semperit and Sri Trang signed an agreement on the demerger of the joint venture Siam Sempermed. Demerger was completed in March 2017. Siam Sempermed changed its name and is now known as Sri Trang Gloves (Thailand) Co. Ltd. As OneMed had a contractual relationship only with Semperit, OneMed does not maintain direct contact with Sri Trang Gloves.
March 2017	British Medical Association published a report "*In good hands – Tackling labour rights concerns in the manufacture of medical gloves*".[16] The report incorporates Finnwatch's research findings, alongside other case studies on the working conditions in medical gloves supply chains in Sri Lanka and Malaysia.
April 2017	Siam Sempermed factory was Amfori BSCI audited. The audit result was B ('Good').
January 2018	According to OneMed, the production of Sempermed brand examination gloves supplied to OneMed has mainly shifted from Thailand towards Malaysia. As OneMed's private label gloves are also manufactured in Malaysia, they have focussed their efforts in the past two years on supply chains in Malaysia. OneMed says that a major learning from the Siam Sempermed case for OneMed has been to realise how much more vulnerable migrant workers are, compared to local workers.[17]

14 OneMed, Julien R., email on 16 January 2018

15 For more information on audit result categories, see Amfori BSCI, Information Kit on BSCI 2.0 for Producers, available at http://www.amfori.org/sites/default/files/final_infokit_bsci_producers.pdf

16 British Medical Association, 2017, In good hands – Tackling labour rights concerns in the manufacture of medical gloves, https://www.bma.org.uk/collective-voice/influence/international/global-justice/fair-medical-trade/medical-gloves-report (accessed on 16 February 2018)

17 OneMed, Julien R., email on 16 January 2018

2.2 IMPROVEMENTS AT SIAM SEMPERMED/SRI TRANG GLOVES

Finnwatch has been monitoring working conditions at Siam Sempermed/Sri Trang Gloves factory packaging department since late 2013. In November–December 2017, Finnwatch spoke to four Sri Trang Gloves factory workers in Hai Yat, Songkhla province, about the current situation at the factory. In addition, Migrant Worker Rights Network (MWRN) conducted additional worker interviews. The organisations have also reviewed workers' pay slips. In 2018, Finnwatch contacted Sri Trang Gloves for a comment on the interview findings presented in the below table multiple times by means of both email and fax but received no response.

"If I do not meet my target, there is a warning from the manager. After three warnings, we are transferred to work at another department, for example, in the department where they make the gloves using machines. It is very hot to work with the machines, nobody wants to be transferred there." – a Sri Trang Gloves worker, 21 years old

"I used to come to work at 4am or 5am to in order to meet my quota too. But now that I am more experienced I only have to come in 30 minutes earlier." – a Sri Trang Gloves worker, 28 years old

The interviewees had been working at the factory a minimum of one year but they had all been in Thailand for much longer. As such, Finnwatch was unable to confirm the details about possible recruitment fees that the recruitment agencies or interpreters used by Sri Trang Gloves factory might still be charging to the workers. Previously, Siam Sempermed workers who had been recruited through the official MOU-process reported extortionate recruitment fees of up to USD 540 (440 euro) in Myanmar. At the time at Siam Sempermed, deductions were made to these workers' salaries to pay back for the fees. Others reported irregular payments between 4 500–7 000 baht (117–183 euro) to the factory interpreter during recruitment[18].

18 For more information see Finnwatch, 2015, *Socially responsible medical gloves*?

One of the company dormitories for Sri Trang Gloves' workers.

2014	2015	2017
Workers are paid below the legal minimum wage. Their salaries vary from 300 to 400 baht for a 13-hour day. At the time, the minimum wage in Thailand was 300 baht for 8-hour day, and the legal minimum overtime pay was 56 baht per hour.	Workers are paid below the legal minimum wage. They receive a salary of 350 baht for a 10-hour day, including overtime. At the time, the minimum wage in Thailand was 300 baht for 8-hour day, and the legal minimum overtime pay was 56 baht per hour.	Workers are still paid below the legal minimum wage if the hours they work per day are taken into consideration (see more below). The pay slips reviewed by Finnwatch and MWRN show wages between 321–358 baht per day. According to the workers interviewed, they regularly work between 8,5–10 hours per day. The variation in their basic pay is however not based on the hours but the type of gloves they are assigned to pack. Currently, the minimum wage in Hat Yai is 308 baht for 8-hour day, and the legal minimum overtime pay is 57.75 baht per hour.
Workers in the morning shift reported that they started working at 4.30am – 2,5 hrs before the beginning of their shift – in order to meet performance targets. According to the workers, overtime work was mandatory, and they were not permitted to leave before they had met their target.	Workers said that they must start their work unofficially without clocking in 1 hr or 1,5 hrs before their shift in order to achieve performance targets. If a worker could not reach their performance target they were threatened with dismissal or transferred to another department where physically strenuous work is carried out in hot temperatures. Workers viewed transfers to different department as punishment.	Workers interviewed reported that they still put in extra time (between 30 mins and 2 hrs before the beginning of their shift) in order to meet their performance target. The workers are not compensated for this work done in the early morning hours. If they repeatedly do not meet their target, they get a warning. After three warnings, they are transferred to other departments with less favourable working conditions.
Workers said that they did not understand how their salaries were calculated. The workers did not receive payslips.	Workers received payslips.	Workers receive payslips. The workers are compensated for overtime done in the evenings but their payslips do not show the hours of overtime worked. Worryingly, only some of the payslips show deductions for social security.
Workers' work permits were retained and only a few workers were in possession of a copy of their work permits.	All the workers interviewed said that Siam Sempermed had confiscated their passports and work permits.	Workers interviewed reported being in possession of their personal documents – such as work permits, ID cards and passports.

3 CASE: Thai Union Manufacturing

Thai Union Manufacturing (TUM) is a subsidiary of Thai Union, one of the largest processors and producers of canned and frozen fish and seafood products in the world. Thai Union owns brands such as Chicken of the Sea, John West and Petit Navire. In addition, private label products of many grocery retailers, including the Finnish S Group and Kesko, are produced by TUM. In Mahachai, Samut Sakhon province near Bangkok where TUM is located, Thai Union has five production units which altogether employ approximately 27 000 people of whom about 6 000 are citizens of Thailand, and the rest are migrant workers from Myanmar and Cambodia[19]. Of these five production units, two are TUM factories (TUM1 and TUM2).

In 2012, Finnwatch published a report "*Cheap has a high price – Responsibility problems relating to international private label products and food production in Thailand*"[20] which exposed labour rights violations at the Amfori BSCI audited TUM. The problems reported by Finnwatch were related mainly to the high recruitment and document fees that were charged to migrant workers, low wages, social security and the lack of freedom of association. The report also identified several shortcomings in the Finnish grocery retailers' corporate social responsibility practices.

The field research findings were shared with TUM before the publication of the report for comment. The field research team and TUM also met twice before the reports' publication to discuss the findings. According to TUM, some of the information collected from interviews with TUM workers was inaccurate and incomplete. The company, however, admitted that there were some challenges and said it would follow-up on the report findings.

Finnwatch has since published two follow-up reports[21] on the working conditions at TUM. Despite some persistent problems, the follow-up reports have indicated significant improvements which are presented in a table on page 19. The table also includes a snapshot of the current situation at TUM.

This document details the outcomes as of December 2017 of the dialogue between Finnwatch and the grocery retailers S Group and Kesko since the publication of "*Cheap has a high price*" in January 2013. During these five years, the organisations have met on numerous occasions and at times, held regular monthly meetings (in which MWRN also took part) to exchange information on the situation on the ground and to keep each other updated on different activities. S Group and Kesko have both also maintained a close dialogue with Thai Union, working together with their supplier to mitigate human rights risks in their private label products' supply chains.

3.1 WHAT HAS HAPPENED SINCE THE PUBLICATION OF *CHEAP HAS A HIGH PRICE* IN 2012?

Both Kesko and S Group have established and maintained close relationships directly with Thai Union. Kesko meets Thai Union regularly at least twice a year, monitors its Amfori BSCI audit results and visits TUM factories. In addition to commercial issues, social sustainability issues are also on the agenda in these meetings.[22]

S Group also meets regularly, approximately 2–3 times per year, with Thai Union to discuss commercial and social sustainability issues, monitors TUM audit results and visits TUM factories on a regular basis. According to S

19 Thai Union, Vorarat Lertanantrakool, telephone interview 14 February 2018

20 Finnwatch, 2013, Cheap has a high price - Responsibility problems relating to international private label products and food production in Thailand, available at (in Finnish) https://www.finnwatch.org/images/pdf/finnwatch_private_label_web_2_rev.pdf

21 Finnwatch, 2014, Out of a ditch, into a pond – Follow-up research on the effects of the Finnwatch report cheap comes with a high price, available at https://www.finnwatch.org/images/pdf/FW_private-label_ENG.pdf and Finnwatch, 2015, Improvements at tuna fish factories in Thailand, available at https://www.finnwatch.org/images/pdf/Finnwatch_followup_tuna_2015.pdf

22 Kesko, Sohvi Vähämaa, email on 31 January 2018

Group, Thai Union has been receptive and active during the dialogue, and continues to make significant improvements.[23]

According to Thai Union, the TUM1 factory has been Amfori BSCI audited in 2016, when it received score B (Good) and in 2017 when it received score C (Acceptable). The TUM2 was audited in 2015, when the result of the audit was 'Outstanding' and in 2016 when it received score B (Good).[24]

"The factory offers training on labour rights to the welfare committee members and they also invite NGOs to train the workers on their rights. In addition, workers can also study Thai language," – a Thai Union worker, 24 years old

3.2 TIMELINE OF DIALOGUE AND OTHER ACTIVITIES

October 2012	Finnwatch conducted field research into working conditions at TUM.
November 2012	Finnwatch met with TUM management to discuss field research findings. Also present was a representative from the Thai Food Processing Association. TUM did not allow Finnwatch to visit the factory or to record the meeting. As mentioned above, according to TUM, some of the information collected from interviews with TUM workers was inaccurate and incomplete. The company, however, admitted that there were some challenges and said it would follow-up on the report findings.
January 2013	Finnwatch published its report "*Cheap has a high price*". The report included case studies on the working conditions in the supply chains of private label tuna and pineapple juice products of three Finnish grocery retailers. One of the tuna producers featured in the report, TUM, is a supplier to both Kesko and S Group's private label product lines. Kesko and S Group are both members of the Amfori BSCI. According to the workers interviewed for the report, they had had to pay high recruitment and documentation fees and their freedom of association was restricted. Their passports and work permits were confiscated and although workers had no social security cards, social security fees were still being deducted from their salaries. Both Kesko and S Group issued public statements in response to the Finnwatch's report. Kesko apologised for the problems highlighted in the Finnwatch report and said that it would take corrective action.[25] S Group promised that problems would not be swept under the carpet[26], and shared the report with Amfori BSCI. The report conclusions were fed into the Amfori BSCI criteria review process.

23 S Group, Sari Ristaniemi, email on 8 February 2018

24 Thai Union, Prad Kerdpairoj, email on 10 April 2018. See also Amfori BSCI, Information Kit on BSCI 2.0 for Producers, available at http://www.amfori.org/sites/default/files/final_infokit_bsci_producers.pdf

25 Kesko, 21 January 2013, Ruokakeskon kannanotto Finnwatchin raporttiin kaupan omista merkeistä, (in Finnish) https://www.kesko.fi/media/uutiset-ja-tiedotteet/uutiset/arkisto/Vastuullisuus/Ruokakeskon-kannanotto-Finnwatchin-raporttiin-kaupan-omista-merkeista/ (accessed on 16 February 2018)

26 S Group, 21 January 2013, Pitkien tuotantoketjujen vastuullisuuden valvonnassa paljon parannettavaa, available at (in Finnish) https://www.finnwatch.org/images/sok_lehdistotiedote_20012013%203.pdf

	Both companies sent surveys to their suppliers (in Kesko's case, approximately 700 suppliers of some 3 000 products). The surveys included questions about the suppliers' human rights due diligence towards their suppliers. Following analysis of the survey results, Kesko made amendments to their commercial contracts with their suppliers. For example, a requirement regarding social responsibility of main ingredients was added to the Kesko Grocery Trade (in Finnish, 'Keskon Päivittäistavarakauppa', previously known as 'Ruokakesko') purchasing contracts.
May 2013	A Kesko representative visited TUM to discuss Finnwatch report's findings.
August 2013	S Group representative met with Thai Union. The meeting was focussed on the rights of migrant workers. S Group also met with MWRN in Thailand, and representatives from four Thai ministries. According to S Group, dialogue with Thai Union increased commitment and transparency between the two.
November 2013	Finnwatch met with Thai Union in Thailand. The purpose of the meeting was to discuss steps taken by Thai Union to address issues raised in the Finnwatch report and to establish good relations for further dialogue.
November 2013	Kesko and Thai Union took part in an Amfori BSCI and ILO joint event in Thailand during which issues such as freedom of association and Thailand's migrant labour policy were discussed. A Kesko representative met with TUM again. Topics discussed included working hours, salaries, the use of Myanmarese and Cambodian recruitment brokers and interpreters, and measures to confirm the age of workers. According to Kesko, TUM responded positively to suggested improvements. Kesko also asks TUM to increase communication about measures that are implemented.
During 2013	Kesko joined Amfori BSCI Food & Primary Production Working Group. The Working Group dealt with social sustainability issues in grocery supply chains and questions related to the situation of migrant workers.
November 2013	TUM1 factory was Amfori BSCI audited. According to Kesko, the audit findings confirmed that the factory mostly met with Kesko's responsibility criteria. The main challenges were related to working hours and were due to differences between national laws and international standards.
January 2014	Finnwatch published a follow-up report to the "*Cheap has a high price*", called "*Out of a ditch, into a pond*". Despite some improvements, serious problems at TUM continued. Most notably, TUM still charged high fees for workers' passports, visas and work permits.

September 2014	Finland adopted a national action plan (NAP) on business and human rights.[27] One of the concrete measures introduced therein was the sector specific roundtables to discuss sufficient risk management and due diligence, hosted by the Ministry of Economic Affairs and Employment and Ministry for Foreign Affairs.
November 2014	Roundtable for the grocery retail sector (see immediately above) began in November 2014. Kesko, S Group and Finnwatch were all invited to take part, among others.
During 2014	Amfori BSCI Code of Conduct was included into all Kesko Grocery Trade supplier contracts. Kesko developed a risk mapping tool for raw materials used in its private label products. Kesko participated in AMS sustainability meetings. AMS Sourcing is an international buying group. Supermarket chains use buying groups to coordinate procurement across borders to obtain the lowest possible prices for well-known brands and/or basic private label groceries. In the AMS sustainability meetings, criteria for socially sustainable procurement were discussed and uniform sourcing practices were agreed on.
March–May 2015	S Group took part in the Amfori BSCI cooperation project which mapped the labour rights situation in fishing vessels in Thailand.
June 2015	Finnwatch published a second follow-up report to the "*Cheap has a high price*", called "*Improvements at tuna fish factories in Thailand*", on the working conditions at TUM and another Thai tuna processor and exporter, Unicord. The report detailed mostly improvements.
August 2015	The roundtable for the grocery retail sector concluded with the signing of a shared vision on the implementation of UN Guiding Principles on Business and Human Rights in grocery trade supply chains betweenS Group, Kesko, another grocery retailer Tuko Logistics, Finnish NGOs including Finnwatch and the Ministry of Economic Affairs and Employment and Ministry for Foreign Affairs.[28]
August 2015	Both Kesko and S Group invited Thai Union to take part in the Amfori BSCI pilot project "*Remediation plan for migrant labour issues in Thailand*".
September 2015	TUM attends an ICA/Kesko workshop on migrant workers.
December 2015	Finnwatch organised a roundtable "*Influencing labour rights in Thailand*" in Helsinki, attended by Amfori BSCI, Kesko and S Group among others (see also page 9). Issues such as responsible recruitment and social dialogue and workers' voice, supply chains and tier-2 monitoring were discussed.

27 Ministry of Employment and Economy, 2014, National Action Plan for the implementation of the UN Guiding Principles on Business and Human Rights, available at https://tem.fi/documents/1410877/3437254/National+Action+Plan+for+the+implementation+of+the+UN+guiding+principles+21102014.pdf

28 Ministry of Economic Affairs and Employment, 2015, A Shared Vision for Respecting the UN Guiding Principles on Business and Human Rights in Grocery Trade Supply Chains, http://tem.fi/documents/1410877/3084000/UNGP+grocery+trade_en/54a9d248-7467-4903-8f2a-99a975445b27 (accessed on 16 February 2018)

During 2015	Kesko began risk mapping of ingredients in its private label products. Between 2015–2017, risk analysis was done to more than 2 200 private label products. As part of a bigger project, Kesko began a 3-year project (2015–2018) with Plan International Finland to improve the situation of especially the children of migrant workers in Thailand fish industry and to increase the transparency in supply chains. As part of the project, Amfori BSCI supplier trainings were organised to Kesko suppliers. Kesko joined Amfori BSCI ad hoc Working Group on Thailand which for example organised trainings for suppliers on recruitment of migrant workers.
During 2015	Work of the Amfori BSCI ad hoc Working Group on Thailand led to the implementation of Amfori BSCI Responsible Recruitment Project in Thailand. Phase 1 involved 21 Amfori BSCI members that worked together with nine Thai suppliers (of which TUM was one) to tackle forced labour and end the exploitation of migrant workers.[29]
During 2015	Thai Union launches SeaChange sustainability strategy.[30]
February 2016	Thai Union revised its Code of Conduct. S Group commented on the draft.
February 2016	Thai Union organised elections for workers welfare committee at TUF in 2016 (see Chapter 3.4).
April 2016	Thai Union adopted Ethical migrant recruitment policy (see Chapter 3.5).[31]
May 2016	Finnwatch report "*Breaking the cycle of exploitation – Recommendations for responsible recruitment of migrant workers in Thailand*"[32] was launched in Bangkok at an Amfori BSCI and ILO joint event "Improving labour rights and working conditions in the food supply chain: Sharing good practices and moving forward". Kesko and Thai Union were both in attendance. Finnwatch and Amfori BSCI representatives visited TUM.
September 2016	Kesko board approved a company-wide human rights commitment.[33]

29 Amfori BSCI, BSCI Takes Action: Responsible Recruitment in Thai Industries, available at http://www.amfori.org/sites/default/files/Draft%20Concept-ThaiStakeholderEvent-21Sep2017%20final%20amendments%20by%20Thai%20gov_HM1.pdf

30 For more information see http://seachangesustainability.org/

31 Thai Union, 2016, Ethical migrant recruitment policy, available at http://www.thaiunion.com/files/download/sustainability/20160116-ethical-migrant-recruitment-policy.pdf

32 Finnwatch, 2016, Breaking the cycle of exploitation – Recommendations for responsible recruitment of migrant workers in Thailand, available at https://www.finnwatch.org/images/pdf/cycle-of-exploitation_final.pdf

33 Kesko, 20 November 2017, Ihmisoikeuksia koskeva sitoumus, (in Finnish) https://www.kesko.fi/yritys/vastuullisuus/miten-johdamme-vastuullisuutta/ihmisoikeuksia-koskeva-sitoumus/ (accessed on 16 February 2018)

Autumn 2016	S Group raised the importance of transparency in supply chains and the role of companies in supporting human rights activists and whistle-blowers including in a meeting with the EU trade commissioner Cecilia Malmström and on various occasions in connection with the trial of Andy Hall.[34]
During 2016	According to Kesko, a major learning from the Cheap has a high price -case has been that it needs to develop supplementary measures to audits to monitor its supply chains. In association with the Trade Union Solidarity Centre of Finland SASK, Kesko monitors the human rights situation in its suppliers' factories in China, India, Bangladesh and the Philippines. The results of the country studies are fed to Amfori BSCI with a view to strengthening auditing methodologies and practices.
June 2017	AxFoundation and 10 Nordic companies, among them S Group, began a project called the Nordic Initiative on Ethical Recruitment and Decent Working Conditions for Migrant Workers in the Thai Food Industry. The project aims to develop a learning tool for factory workers on labour rights issues.
August 2017	TUM attends a workshop on the implementation of the new Amfori BSCI Code of Conduct for Thai tuna producers. The workshop is supported by Plan International and Thai Tuna Industry Association.
September 2017	Amfori BSCI launched a new module on responsible recruitment.[35] It includes recommendations to Amfori BSCI members to adopt a zero recruitment fee policy, encourage transparency of and conduct due diligence over suppliers' recruitment practices. The Amfori BSCI Responsible Recruitment project has evolved into a multi-stakeholder collaboration funded by the Ministry of Commerce of the Royal Government of Thailand. The project "*Enhancing Capacities of Thai Companies on Social Performance*", aims to train upper and middle management from 70 different Thai companies over the 2017–18 period.
During 2017	Kesko expands the collaboration with SASK to the supply chains of grapes in Brazil, South Africa and India. As a result, Kesko made recommendations to Amfori BSCI to include logistics within the scope of the audits.[36]

34 Andy Hall is a British migrant rights' expert and a human rights defender. In 2012, Finnwatch hired Andy Hall as a consultant researcher to coordinate field research in Thailand for a project that led to the publication of the report Cheap Has a High Price. Another Thai company featured in the report, Natural Fruit Co. Ltd., has since then initiated several criminal and civil proceedings against Andy Hall. In July 2016, Finnwatch, S Group and Thai Union testified for the defence in one of the criminal cases against Andy Hall. Thai Union has also at least twice contributed towards his bail money through providing bail money through Thai Tuna Industry Association (TTIA). For more information, see Finnwatch, 7 July 2016, Finnwatch and retail chain S Group to testify at Andy Hall's trial, https://www.finnwatch.org/en/news/391-finnwatch-and-retail-chain-s-group-to-testify-at-andy-hall%27s-trial (accessed on 16 February 2018)

35 Amfori BSCI, 10 October 2017, New Tools to Enhance Responsible Recruitment Practices in Supply Chains, http://www.amfori.org/news/new-tools-enhance-responsible-recruitment-practices-supply-chains (accessed on 16 February 2018)

36 Kesko, 9 November 2017, Kesko ja SASK selvittivät viinirypäleiden tuotantoketjuja: Ihmisoikeusriskejä piilee tilojen aj pakkaamoiden lisäksi riskimaiden kuljetuksissa, (in Finnish) https://www.kesko.fi/media/uutiset-ja-tiedotteet/uutiset/2017/kesko-ja-sask-selvittivat-viinirypaleiden-tuotantoketjua-ihmisoikeusriskeja-piilee-tilojen-ja-pakkaamoiden-lisaksi-riskimaiden-kuljetuksissa/ (accessed on 16 February 2018)

3.3 IMPROVEMENTS AT TUM

Finnwatch has been monitoring working conditions at TUM since 2012. Over the years, working conditions at TUM have improved significantly. In November–December 2017, Finnwatch spoke to six Thai Union workers in Mahachai, Samut Sakhon province, and in April 2018, to eight more workers. The interview findings pertaining to TUM are detailed in the below table. The interviews provide a snapshot of the current working conditions at TUM factories.

"Best programme at work is the language training. When I first came here I did not understand what the management told us, now I do. But there are still several workers in the factory who do not speak the Thai language. That's why it is great that we can now file complaints through the worker welfare committee in our own language," – a Thai Union worker, age not known

2012	2013	2014–2015	2017
Workers were charged high recruitment and document fees.	Workers were charged high recruitment and document fees, and illegal extra fees that were paid to officials.	TUM covered the recruitment related fees beyond officially stipulated costs; workers were given original receipts for the documents they had paid for.	In 2016, Thai Union adopted Ethical migrant recruitment policy. Its implementation is discussed in Chapter 3.5.
Workers' passports and work permits were confiscated.	Workers were given back their documents.	All the interviewed workers were in possession of their documents.	All the interviewed workers were in possession of their documents.
There were dangerous equipment and occupational accidents at the factory.		According to interviewed workers, there were only minor occupational accidents at the factory.	Interviewed workers reported only minor accidents at the factory. Some workers volunteered information about training in (fire) safety that they had attended.
Almost none of the workers had social security cards.	Still problems with social security cards. The factory started a dialogue with officials.	Problems with social security cards are incidental, not systematic.	Interviewed workers reported no problems with social security cards.
Workers claimed that the hospital designated by the factory gave poor care.		The workers were able to choose the hospital for themselves but treatment was still poor.	Most interviewed workers had not used hospital services; those who had said treatment was good.
Workers were not aware of their rights.	TUM started training workers.	Interviewed workers had better understanding of their rights.	Most workers interviewed were relatively new recruits. They had not received training on labour rights. MWRN will restart training on labour rights at TUM in 2018. TUM also organises Thai language training to workers on Sundays.
Workers' concerns were not heard, and factory provided no channels for making complaints.	Factory had implemented feedback boxes.	Factory used feedback boxes, feedback phone and had a dedicated them for maintaining workplace relationships.	Now, workers can also raise complaints through the welfare committee.

3.4 WELFARE COMMITTEES PROVIDE A PLATFORM FOR SOCIAL DIALOGUE

Thailand's export industry sector relies heavily on migrant labour, and the lack of communication and social dialogue between the employer and employees is a commonly reported problem. Migrant workers and their managers rarely share a language and therefore, they rely on interpreters whom the migrant workers often do not trust. Sometimes company interpreters are also accused of corrupt practices, including charging various unofficial fees to the workers for their services.

The overall unionisation rate in Thailand is low, and Thai law still restricts the freedom of association of migrant workers. However, according to Thailand's 1998 Labour Protection Act, all workplaces with 50 or more employees must have a welfare committee. A welfare committee must have a minimum of five elected members representing the workers and meet at least once every three months. The Labour Protection Act[37] describes the duties of the welfare committee as follows:

> *"To participate in discussions with the boss in order to arrange for welfare benefits for the employees.*
>
> *To give advice and recommend opinions to the boss in the matter of welfare arrangements for the employees.*
>
> *To inspect, supervise and look after welfare arrangements provided by the boss for the employees.*
>
> *To propose comments on and guidelines to the labour welfare committee for welfare arrangements which are beneficial to the employees of the labour welfare committee."*

In practice, migrant workers who in many export industries form the majority of the workforce, are typically unaware of any welfare committee at their workplace. Where such committees exist, migrant workers often feel that the committees are ineffective and do not represent the interests of the migrant workers.

In February 2016, MWRN helped Thai Union to organise democratic welfare committee elections at Thai Union Group PCL (TUF). Altogether 60 TUF workers stood as candidates of whom 46 were migrant workers. In April 2016, the committee was established with 19 elected workers of whom 11 were migrant workers and 8 were Thai nationals.

The welfare committee meets with the TUF compensation and benefits manager and employee relations manager quarterly. In these meetings, the welfare committee brings up issues they would like to discuss with the management. The management then has a set timeframe within which it has to provide a response to the welfare committee. Examples of issues that the welfare committee has raised to date include the following: Thai Union organises for an annual recreational trip for all workers who have been employed at Thai Union for a minimum of five years. The welfare committee has asked for all workers, including recent recruits, to be allowed to take part on the trip. The welfare committee has also asked for clarifications on performance based incentive pay.

By law, welfare committee is elected for a two-year term. At the time of writing, TUF was preparing for new welfare committee elections. In 2018, MWRN will help Thai Union organise welfare committee elections also at Thai Union's production units Thai Union Manufacturing Co. Ltd. (TUM), Songkla canning PCL (SCC) and Okeanos food Co. Ltd. (OKF) and Pakfood PCL.

According to a Thai Union representative, welfare committees provide an alternative channel for the company management to establish social dialogue with workers in Thailand where migrant workers' trade union rights are restricted by law. The Thai Union experience of the democratically elected welfare committees has been positive. The welfare committee has proven a good channel to get information from the migrant workers. Migrant workers interviewed for

37 Labour Protection Act, 1998, http://www.ilo.org/dyn/natlex/docs/WEBTEXT/49727/65119/E98THA01.htm (accessed on 25 May 2018)

this report also reported positive experiences from the workings of the welfare committee. According to the interviewees, they can raise complaints through the welfare committee using their own language and the communications with the management are more transparent when they take place within this framework.

Although the welfare committee is not a unit for collective bargaining and therefore, cannot replace a trade union, the experience at Thai Union shows that a democratically elected and representative welfare committee can improve communications and social dialogue in Thailand. Thus, democratically elected and representative welfare committees have potential to evolve into a trade union once Thailand ratifies and implements in law and practice ILO conventions on freedom of association and collective bargaining.

3.5 IMPLEMENTING RESPONSIBLE RECRUITMENT POLICY: THE THAI UNION EXPERIENCE

Thai Union employs approximately 35 000 people across Thailand. Of these, 33 per cent are Thai nationals, and 63 per cent are migrant workers from Myanmar, 4 per cent are migrant workers from Cambodia.[38]

Thai Union adopted an Ethical migrant recruitment policy in April 2016[39]. The policy comprises three parts: use of formally approved/licensed third-party suppliers (recruitment agencies) only; procedures for selecting workers and pre-departure training; and fees for recruitment services. The policy is applied throughout the Thai Union Group but it only applies to migrant workers recruited through the MoU process[40].

38 Thai Union, Vorarat Lertanantrakool and Taweeporn Chomchan, telephone interview 8 February 2018

39 The policy is available at http://www.thaiunion.com/files/download/sustainability/20160116-ethical-migrant-recruitment-policy.pdf

40 The Royal Thai Government had entered into Memorandums of Understanding on cooperation with employment of workers with its neighbouring countries Myanmar, Cambodia, Laos and also Vietnam. These MoUs regulate labour migration from these countries to Thailand.

According to the company monitoring and influencing for example the fees paid by migrant workers who make their own immigration arrangements would be beyond Thai Union's means and control[41].

Thai Union also engages MWRN and Issara Institute[42] to provide oversight of the processes and assisting with effective communications with migrant workers on safe and legal migration[43]. This oversight comprises e.g. a grievance mechanism whereby workers can report to MWRN or Issara Institute if they are charged excessive fees[44].

To implement the Ethical migrant recruitment policy, Thai Union has formed a specific recruitment task force which comprises one full-time team member who oversees the implementation. In addition, a team of 10 people from Thai Union's human resources department is involved in pre-departure and post-arrival interviews with migrant workers alongside MWRN representatives. Issues covered in the pre-departure training include human rights standards and Thai labour and social welfare laws.[45]

The effectiveness of the implementation of the policy is assessed once a year through internal social audits during which a minimum of 10 percent of the recruited migrant workers are interviewed.

Criteria for selecting recruitment agencies

Following the adaptation of the ethical migrant recruitment policy, Thai Union has hired approximately 12 000 migrant workers of whom the vast majority, 11 000, have been recruited from Myanmar and approximately

41 Thai Union, Vorarat Lertanantrakool, telephone interview 14 February 2018

42 For more information see https://www.issarainstitute.org/

43 Thai Union, Modern Slavery Act Statement 2016, available at http://www.thaiunion.com/files/download/sustainability/policy/TU-modern-slavery-en.pdf. See also Thai Union, Modern Slavery Act Statement 2017, available at http://www.thaiunion.com/files/download/sustainability/policy/TU-modern-slavery-2017-en.pdf

44 Thai Union, Prad Kerdpairoj, email 6 March 2018

45 Thai Union, Vorarat Lertanantrakool, telephone interview 14 February 2018

1 000 from Cambodia. Thai Union does not engage the services of any external recruitment agency in Thailand but hires workers directly instead[46]. In Myanmar, Thai Union currently engages the services of two recruitment agencies. These two agencies were selected according to the following criteria: they comply with Thai Union's Business Ethics and Labor Code of Conduct, they are officially licensed and have a good track-record and reputation. In addition, Thai Union requires the recruitment agencies it engages with to be able to provide recruits with accommodation during pre-departure training that is up to the Thai Union standards. In addition, before engaging a particular recruitment agency, Thai Union also check with MWRN whether MWRN is aware of any allegations of the agency having charged migrant workers excessive fees or of other behaviours that would contradict Thai Union policies.[47]

In addition to the two agencies that Thai Union currently engages in Myanmar, several other agencies have also been considered. These other agencies have not been engaged primarily because Thai Union's need for new recruits has been reduced and the two existing recruitment agencies are capable of supplying the necessary labour. Thai Union's need for additional workers has been reduced due to the following factors: automation and improved processes at Thai Union production units, high price of raw materials, changes in demand and supply, and reduced staff turnover. Previously, the staff turnover at Thai Union was approximately 40 percent whereas now it is around 25 percent. This is likely because of greater employee satisfaction rates (see also below under "Results of the policy").[48]

Transparency in fees charged to workers

Thai Union's ethical migrant recruitment policy seeks to reduce the vulnerability of migrant workers to labour exploitation and to ensure a "fair balance" between costs borne by migrant workers and Thai Union during recruitment process. The policy lays out clearly which recruitment and placement related fees Thai Union covers but it is not an actual zero-fee policy because migrant workers still have to pay several recruitment and placement related fees. In addition to "fair balance", Thai Union seeks to ensure that migrant workers only pay the official fees for various documents, for example, and that candidates are clearly informed about the costs that they will have to cover.

As per Thai Union's ethical migrant recruitment policy[49]:

Thai Union (or its subsidiary) pays	Employees pay
All recruitment fees including the following: – contract development or contract signing ceremony costs – recommendation or approval documents – Pre-departure training costs including accommodation and food during assigned training dates – Foods and drinking water during travelling from origin country appointed departure point to Thailand border to Thai Union or its subsidiary's factories – Transportation expenses from Thailand border or pre-departure training point to Thai Union or its subsidiary's factories – Cost of uniform, health and safety equipment	**In home country:** – visa application fees including passport, visa, pictures and forms – medical service fee and medical check-up costs – labour card or origin country required documents – travel and food costs travelling to and from interview, passport processing, pre-departure training, contract signing and to agreed departure point to Thailand – accommodation costs during interview, passport processing and contract signing **In host country (Thailand):** – visa costs – work permit documents renewal fees for every 2 year employment extension after initial recruitment 2 years period including work permit fee, visa, health check up, other expenses related to the employment extension

46 Thai Union, Darian McBain, email on 25 May 2018

47 Thai Union, Vorarat Lertanantrakool and Taweeporn Chomchan, telephone interview 8 and 14 February 2018

48 Thai Union, Vorarat Lertanantrakool, telephone interview 14 February 2018

49 Thai Union, 2016, Ethical migrant recruitment policy, available at http://www.thaiunion.com/files/download/sustainability/20160116-ethical-migrant-recruitment-policy.pdf

In an attempt to ensure that workers only pay the official fees for various documents etc. (see table on page 22), Thai Union has visited Myanmar and Cambodia to map out the actual costs. Through this exercise, it has been possible to ascertain costs involved in the recruitment and placement of migrant workers. However, according to Thai Union, the greatest challenges in the implementation of the policy to date are to do with government regulations and official fees which are both unclear and non-transparent, especially in Cambodia, and the time it takes to process various documents. Thai Union has shared information and insights to government authorities on its recruitment policy and experiences in its implementation. In Thailand this has been done in cooperation with other companies in the seafood sector. The Government of Myanmar has also been open to dialogue with Thai Union.[50]

Thai Union requires the recruitment agencies to communicate the breakdown of the fees that the workers are responsible for themselves clearly to all candidates. These breakdowns are displayed in the recruitment agencies' offices and on their websites; workers' knowledge about official fees as well as information on the actual fees they have paid are also checked in pre-departure and post-arrival interviews which are conducted with all selected candidates and new recruits.[51]

To date, Thai Union has discovered only 20 cases of workers having been charged fees in excess of what is stipulated in the Thai Union policy. In most of these cases, the excess fees were unspecified service fees of around 150 USD charged to the workers by a Myanmarese sub-agency used by one of the two recruitment agencies that Thai Union engages in Myanmar. According to Thai Union, in all cases the recruitment agency has reimbursed the workers who had been charged excess fees.[52]

According to Thai Union, they have discussed expanding the "zero-fees policy" to cover at least some of the fees that are still paid for by the employees themselves. However, according to Thai Union this would require other companies to get on board too. The issue is being discussed in the Seafood Task Force[53] and among, for example, Amfori BSCI members.[54]

Clarity over working conditions

Recruitment fees that can be extortionate are one of the main risk factors contributing to forced labour. Another common contributing risk factor is deception during recruitment. Thai Union's Ethical recruitment policy requires the recruitment agencies to ensure that selected workers are informed in their own language (or a language that they understand) and clearly understand and freely accept the terms and conditions of employment prior to recruitment. The information provided to workers includes job description, information on nature of the work and the manufacturing environment which are further illustrated with pictures of the factory and workers' dormitories. Workers understanding of terms and conditions is confirmed in pre-departure training and followed-up on during post-arrival interviews.[55]

According to Thai Union, since the adoption of the Ethical migrant recruitment policy, only five new recruits have been dissatisfied with the working conditions following their arrival at Thai Union. According to Thai Union, these five people simply were not used to factory work and in these cases, there was no reason to suspect deception during recruitment. These five people were allowed to return to Myanmar, and Thai Union covered the cost of their repatriation.[56]

50 Thai Union, Vorarat Lertanantrakool and Taweeporn Chomchan, telephone interview 8 February 2018

51 Thai Union, Vorarat Lertanantrakool and Taweeporn Chomchan, telephone interview 8 February 2018

52 Thai Union, Vorarat Lertanantrakool and Taweeporn Chomchan, telephone interview 8 February 2018

53 For more information see http://www.seafoodtaskforce.global/

54 Thai Union, Vorarat Lertanantrakool, telephone interview 14 February 2018

55 Thai Union, Vorarat Lertanantrakool, telephone interview 14 February 2018

56 Thai Union, Vorarat Lertanantrakool, telephone interview 14 February 2018

Results of the policy

According to a Thai Union representative, the greatest success of the Thai Union's Ethical migrant recruitment policy is that it has contributed towards the reputation of Thai Union as a good employer among migrant workers. The possibility of a job at Thai Union draws candidates to the recruitment agencies that Thai Union engages with, and the supply of labour is well above the needs of Thai Union.[57] According to MWRN, the greatest benefits of the policy are that migrant workers recruited to work at Thai Union pay much lower fees than other migrant workers and have a safe channel to enter into Thailand.

Although Thai Union's business partners are interested in Thai Union's ethical migrant recruitment policy, it has not brought new business opportunities to Thai Union. Thai Union sees that there is a lot of momentum gathering on the issues of responsible recruitment although still only very few companies have adopted responsible recruitment policy and even fewer are implementing them (Thai Union was not aware of other companies who have been implementing a responsible recruitment policy in Thailand at the time of writing, for example).[58]

Thai Union would welcome greater engagement of its business partners in its Ethical migrant recruitment policy, for example by deeper understanding of the extend and costs of the implementation all of which are covered by Thai Union. Thai Union did not however, want to divulge any figures to Finnwatch for the purposes of this report.[59]

57 Thai Union, Vorarat Lertanantrakool, telephone interview 14 February 2018

58 Thai Union, Darian McBain, telephone interview 14 February 2018

59 Thai Union, Vorarat Lertanantrakool, telephone interview 14 February 2018

A case gone wrong: European grocery retailers including Lidl cut off their supplier – migrant workers now at risk of even imprisonment

In 2016, allegations about labour abuse at a Thammakaset poultry farm in central Thailand emerged and caught international attention[60] as the company, Thammakaset Co Ltd, initiated criminal defamation proceedings[61] against 14 of its former workers who had filed a complaint about their employer to the National Human Rights Commission of Thailand (NHRCT).

According to the workers' complaint, made public by the Migrant Worker Rights Network (MWRN), they had been forced to work up to 20 hours per day without a day off during 40 or more days. The company also paid the workers less than the minimum wage, provided no overtime compensation, restricted workers freedom of movement and had confiscated their identity documents. At the time, Thammakaset was a supplier to Thailand's largest chicken exporters, including Betagro, which had several customers across Europe.

In February 2018, the case against the 14 workers reached trial stage. At a court hearing, a Thailand Ministry of Foreign Affairs' memorandum, translated here into English: "*in August 2016, following reports on migrant labour abuse in Thailand's chicken industry, leading retailers in Germany – Lidl, Aldi and REWE – suspended import of all chicken products from Thailand, purchasing instead from Brazil which is Thailand's main competitor. According to a Jan Zandbergen62 representative, import suspension was in order to avoid involvement in labour abuse issue while alternative sources had sufficient capacity to meet market demand at similar quality and cost.*"

Finnwatch asked Lidl[63] Finland for a comment on the Thai ministry's memo. In their response, Lidl did not confirm or deny the information provided in the memo, but instead said that according to a review they had conducted in 2016, there was no Thai chicken in the Lidl selection in Finland. Lidi also did not respond to questions about their usual conduct in similar situations.[64] As such, serious concerns about Lidl's conduct in this case remain.

According to UN Guiding Principles on Business and Human Rights, companies cannot, by definition, meet their responsibility to respect human rights if they cause or contribute to an adverse human rights impact and then fail to enable remediation.[65] Although the exact nature of the German grocery retailers involvement in the extremely poor working conditions at the Thammakaset poultry farm is unknown due to lack of publicly available data and supply chain transparency (i.e. whether they caused, contributed or where linked to it through their business relations – or not at all), it appears that the German grocery retailers did nothing to investigate or address possible labour abuse in their Thai poultry supply chains, or their own involvement in it, but instead simply moved their business elsewhere. Their suspending of purchasing orders from all Thai poultry suppliers might now have direct consequences for the workers who challenged their employer and who are facing a possible criminal conviction and even prison sentence.

60 See for example, The Guardian, 1 August 2016, Thailand: poultry workers cry fowl amid claim they 'slept on floor next to 28,000 birds' https://www.theguardian.com/global-development/2016/aug/01/thai-chicken-farm-workers-slept-on-the-floor-next-to-28000-birds (accessed on 25 May 2018)

61 For more information about these criminal proceedings, see for example Finnwatch, 6th February 2018, Criminal defamation trial against 14 migrant workers who reported abuse begins in Thailand, https://www.finnwatch.org/en/news/521-criminal-defamation-trial-against-14-migrant-workers-who-reported-abuse-begins-in-thailand (accessed on 25 May 2018)

62 A meat importing and distributing company, for more information see https://www.janzandbergen.nl/en/

63 Aldi and REWE are not present in Finland and therefore, they were not contacted.

64 Lidl, Maija Järvinen, email on 24 May 2018

65 UNGPs, Interpretative Guide, Principle 22

4 Conclusion

The two case examples of Siam Sempermed/ Sri Trang Gloves and Thai Union discussed in this document, the publication of a research report that exposed alleged labour rights violations and was critical of the featured companies' corporate social responsibility practices, led to an array of activities by both the buyer companies and the supplier companies. These activities had wide ranging impacts not only on an individual case but also in terms of these companies' other supply chains, and even national policies.

The two case examples demonstrate that it takes a lot of determination and hard work to implement corrective actions when human rights risks in the supply chains are materialised. Addressing more complex problems such as recruitment related abuse and freedom of association issues is a slow process and achieving concrete results can take time. In both cases discussed here, the buyer companies made extensive use of social auditing as a tool to address alleged labour rights violations in their supply chains. Other tool that the companies have made a use of include extensive dialogue both between buyer and supplier companies as well as between companies and civil society organisations, revision of commercial contract clauses, strengthening of social auditing schemes' audit protocols and criteria, and collaborative projects aimed at improving working conditions and workers' well-being.

The case example of Siam Sempermed/Sri Trang Gloves demonstrates both the usefulness but also the gaps and limitations in the social auditing approach. Most social auditing schemes still do not tailor their criteria and protocols to meet the country or industry specific needs. For example, despite the fact that Thailand's export industries rely heavily on migrant labourers who are vulnerable to human rights abuses in all stages of employment, social auditing schemes have only recently begun to pay attention to the recruitment of migrant workers as a human rights issue. Furthermore, audit teams typically do not have members with the necessary language skills to interview migrant workers and therefore rely on company interpreters who themselves are often implicated in the abuse of migrant workers' rights and their direct engagement with workers is limited[66].

Despite their shortcomings, for buyer companies social auditing schemes are a scalable tool to monitor working conditions in their supply chains. Social auditing schemes typically incorporate a continuous improvement approach which encourages and incentivises the audited companies to invest in improving working conditions and to reach a minimum level standard. In the case example of Siam Sempermed/Sri Trang Gloves, the audit results have improved over the years, indicative of changes at factory level.

However, social auditing schemes have a poor track record of both recognising violations of the right to freedom of association and in bringing about improvements in workers' rights to organise and bargain collectively. Auditing therefore, cannot replace worker engagement and genuine social dialogue between workers and the management as a way to address some of the more difficult labour rights issues in the supply chains and to bring about sustained change. To support this, legislative changes are also needed in Thailand where migrant workers' trade union rights continue to be restricted by law.

In the case example of Thai Union, Thai Union has adopted policies aimed at tackling recruitment related abuse of its vast migrant labour force and taken action to ensure migrant workers' participation in the legally stipulated worker welfare committees. The work is on its early stages but it has already had some results – such as the significantly reduced staff turnover rate,

66 For more information see e.g. Finnwatch, 2016, Perspectives on the quality of social responsibility monitoring schemes, https://www.finnwatch.org/en/news/379-serious-gaps-in-social-responsibility-auditing-schemes-

improved desirability of Thai Union as a place to work and significantly reduced recruitment related fees paid by migrant workers. In addition, the company and its customers such as the Finnish retailers Kesko and S Group have actively participated in initiatives aimed at improving the criteria and protocols of Amfori BSCI social auditing scheme to also include principles of responsible recruitment.

Kesko and S Group follow Thai Union's audit results actively. In the case of Siam Sempermed/Sri Trang Gloves, OneMed the company that markets Sempermed brand medical gloves in Nordic countries also followed Siam Sempermed audit results carefully and also commissioned its own, additional audits. OneMed also offered to share information about the multiple audits with its customers but according to the company, only one hospital district on one occasion asked to see the audit reports. Finnwatch has studied public procurement in Finland for a number of years and has repeatedly criticised the lack of use of social criteria in tenders, and virtually non-existing follow-up on contract clauses related to human rights issues. This case serves as a further reminder to public procurement bodies to engage with their suppliers and to monitor compliance with contract clauses on social responsibility in order to improve working conditions in their supply chains.

The UN Guiding Principles on Business and Human Rights expressly require companies to carry out human rights due diligence to prevent and mitigate human rights risks, and to remedy actual negative human rights impacts they have caused or contributed to. Although UNGPs do not impose binding legal obligations upon companies, they have given rise to binding obligations such as the French Law on Duty of Vigilance.[67] In several other European countries, preparations for mandatory human rights due diligence are well underway. These new, binding legal obligations are likely to lead to careful cost calculations for human rights risks by companies. The kind of extensive corrective actions that companies may have to take, when human rights risks in their supply chains in Thailand materialise, such as those described in this publication, are unlikely to be affordable for Thailand. National laws that lag behind international labour rights standards, are likely to impede on Thailand's competitiveness.

67 Loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre, (in French) https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000034290626&dateTexte=&categorieLien=id (accessed on 25 May 2018)

Recommendations:

TO THAI GOVERNMENT

- Amend Sections 88 and 101 of the 1975 Labour Relations Act to permit registered migrant workers to exercise the right to establish and register a union, and to be a member of the union committee, from which the individuals are chosen to lead the union. Ratify ILO Core Conventions 87 and 98.
- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which guarantees fundamental rights and freedoms of migrant workers and their families.
- Enforce labour protections to ensure that all workers, including migrants, are paid at least the minimum wage, granted adequate leave time, and are able to retain their identification documents.
- Encourage Thai companies to develop, implement, and publish human rights policies and practices (including those concerning labour rights) appropriate to their size and circumstances and in line with international standards on business and human rights, including:
  - specific commitments to meet the responsibility to respect human rights, including labour rights; and
  - a human rights due diligence process to identify, prevent, mitigate, and account for how the company addresses their impacts on human rights, in particular their labour rights.
  - Impartially investigate all allegations of labour rights abuses and take appropriate legal action, including seeking compensation from responsible companies, for workers who have been harmed.
- Ensure the right to freedom of expression for workers, activists and others who report on human rights and labour rights abuses allegedly committed by companies during their business operations.
- Publicly discourage employer federations and national-level employer congresses from bringing criminal defamation and other unwarranted legal proceedings against migrant workers and human rights activists working to promote and protect human rights in the context of business operations.
- Decriminalise defamation by amending the Section 326–328 of the Thai Criminal Code and the 2007 Computer Crimes Act.

TO THAI COMPANIES

- Adopt and implement responsible recruitment policies. Such policies should include as a minimum,
  - the principle of no recruitment fees being charged to the worker in case an agency or broker is utilised for recruitment purposes. The employer should bear the full cost of recruitment. The prohibition on fees charged to the workers should be explicitly included in purchase agreements between buyers and their suppliers, and in contracts with recruitment agencies.
  - require that all workers be given written employment contracts in a language that they understand that explain the terms of employment using clear and concise language. The translation should be identical with the original. Given concerns that many migrant workers may be illiterate or challenged to fully understand the terms of employment, employment conditions should be fully explained to all workers in training sessions or during comprehensive inductions. The workers should be compensated for the duration of the training.

  - strictly forbid any retention of workers' identity and/or travel documents, and work permits.

- Companies that employ migrant workers and use the services of recruitment agencies should use only authorised recruitment agencies that abide by responsible recruitment principles, and cease using the services of agencies that are known to be charging fees to the workers or retaining workers' documents. Companies should also establish mechanisms for oversight to monitor recruitment agencies' compliance with responsible recruitment principles and ensure irregular brokers are not utilising registered agencies as a rubber stamp for irregular recruitment practices.

- In addition to contractual information, it is also important to provide employees prior to recruitment in an origin country detailed information about company policies, including the company's recruitment policy, and acceptable practices as well as national legislation pertaining to migrant workers in Thailand, including employment and immigration legislation. Such transparency enables migrant workers to know the rights they are entitled to, and to recognise forbidden behaviours and practices if they are subjected to those. It may encourage migrant workers to seek justice and remedial action when their rights are being violated.

- Actively promote social dialogue, freedom of association and collective bargaining among their workforce, including migrant workers.

- Advocate for the ratification of ILO Core Conventions 87 and 98 by Thailand.

TO COMPANIES SOURCING FROM THAILAND

- Include recruitment fees, contract deception, retention of documents, and recruitment related complaint mechanisms into human rights due diligence procedures and social auditing, and increase transparency over their labour supply chains. These should cover all stages of recruitment in both the origin and destination country (and country of transit if applicable) as well as possible labour subcontracting arrangements.

- Include migrant workers right to freedom of association into any human rights due diligence processes, and ensure that it is covered in social auditing.

- Utilise independent third party social certification and/or auditing schemes such as Amfori BSCI and SA8000. As a stakeholder in these schemes, actively participate in the revision of schemes' standards and protocols.

- Use your leverage to encourage your suppliers to adopt responsible recruitment policies and to organise democratic worker welfare committees and to encourage migrant workers to stand as candidates.

- Engage local civil society – trade unions and in countries were trade union rights are restricted by law, other worker representatives and NGOs representing vulnerable groups – to supplement information obtained through audits and to be used in human rights risks assessments.

- Advocate for the ratification of ILO Core Conventions 87 and 98 by Thailand.

- Consider entering into a global framework agreement with relevant global unions that would cover the company's global supply chains, including its operations in Thailand.

Finnwatch ry
Malminrinne 1B, 2.krs
00180 Helsinki
info@finnwatch.org
www.finnwatch.org
@Finnwatch1