



The Fair Wear Foundation in Cooperation with ETI-Norway

Background Study Thailand

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1. Introduction

The Fair Wear Foundation verifies that companies that are member of the Fair Wear Foundation monitor and if necessary improve the labour conditions at the garment factories where they source garments.

To be able to verify the implementation of the Code of Labour Practices, the Fair Wear Foundation operates in various countries where garments are being produced. In these countries, a network of partner organisations is set up. For a more detailed description of FWF's method of working, one is referred to the FWF policy document "Principles and Policies", which is posted on the FWF web site, www.fairwear.nl.

Whenever FWF starts to operate in countries where garments are being produced for FWF (prospective) member companies, the first step is to make a background study for "members of FWF". This study has four different parts serving four different purposes:

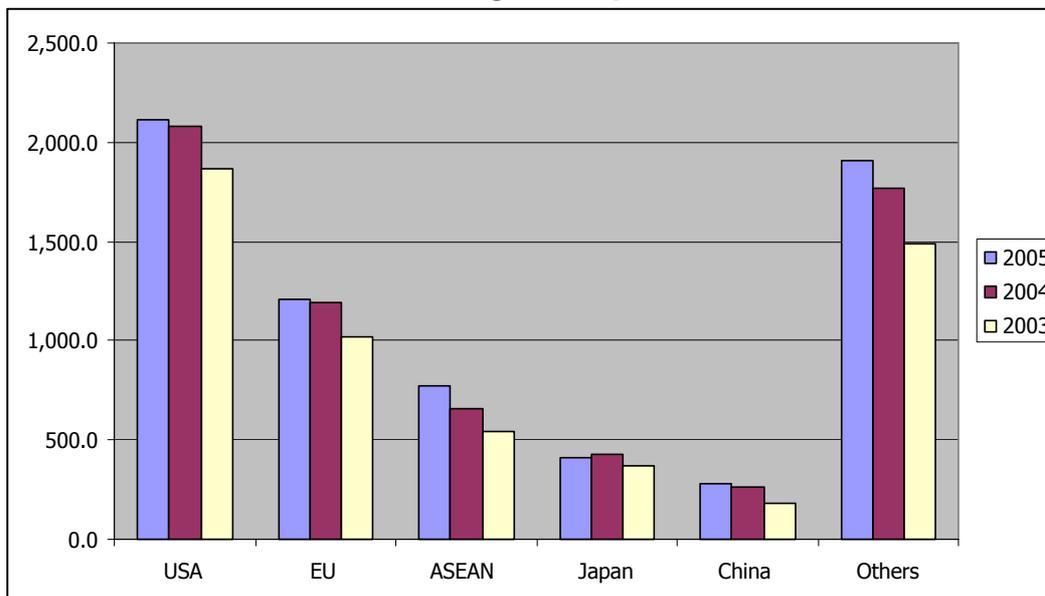
1. To give an overall context to assess the limits and possibilities to improve labour standards in the companies involved.
2. To facilitate the verification process by FWF and the monitoring task of member companies by giving an overview of current legislation, and relevant jurisdiction regarding the labour standards and other types of regulation concerning the labour standards.
3. Similar to 2 but then focussing on H&S laws and regulations.
4. The background study contains an inventory of the stakeholder organisations that could be asked to cooperate with FWF.

This study is a working document. (Parts of) the background study can be updated at any time. The main body of this text was written by Junya Yimprasert.

2. The garment industry

Textile and clothing was among the first industries created in the history of Thailand. Textile production with the use of machinery began in the period of 1922-1925. In 1933 the Ministry of Defence set up a textile factory for the production of military uniforms. This led to the import of machinery such as spinning machines (3,232 machines), weaving machines (72 machines) dyeing machine (1 set) and a machine to process cotton (1 set)¹.

The market of ASEAN countries in garment products in The world



EU imports of MFA clothing from Asean countries: Value 4,5%, volume 4,5%
Thailand does not appear on the list of the top 10 suppliers of clothing to the EU in the period 2004-2005¹.

The textile industry, which includes leather, shoes, and clothing products, has been a significant export industry in Thailand since textile products were exported for the first time in 1972. 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. From 1980-1989 the relocation of production into Thailand was a result of rising wages elsewhere as well as the appreciation of local currency². Between 1985 -1996 the industry was the top in terms of generating revenue for the country. During this period Thailand had become one of the top exporters of textile products. The growth of textile exports continued for several years and in 1995 the country ranked number 8 on the list of world exporters of textile products, leading South Korea, India and Mexico³.

Thailand's rank on the list of suppliers of to the EU²

Product	Rank in value	Rank in volume	% value 2005	% volume 2005	% growth value since 2004	% growth volume since 2004
fabrics woven from synthetic staple fibres	5	4	4.7	6.4	-5.3	-1.3
fabric woven from synthetic filament yarn	9	3	3.2	9.8	-6.8	187.5
Pullovers	10	9	2.4	2.4	-23.0	-16.6

Thai garment makers have enjoyed a resurgence in 2006 and hope that a trade deal will boost exports to Japan. But high costs are forcing firms to invest in China, Cambodia and Vietnam. In the period Jan-sept 2006, Thailand was the 10th largest supplier of textiles to the USA with a 1,5% share, which meant a 9,8% decrease compared with the period Jan-sept 2005. Thailand does not appear on the list of the 10 largest suppliers of clothing to the USA for these periods³.

The quota crisis of the summer 2005 has shown in a painful way that from a trade perspective sourcing from different countries and not from China alone is important. The question is which country would opt for the China+1 position. In many sectors, and not for garments alone, the China+1 sourcing strategy is popular. Depending on the product, mainly India, Vietnam, Bangladesh or Indonesia can fill this gap. Countries such as Pakistan, Sri Lanka, **Thailand** and Laos could play a role, let alone the volume of production that can be produced in these countries⁴.

Ranking of **Thailand** among the top-20 countries for the import of clothing in the Netherlands (x € 1000)⁵

Year	Rank	Value
1996	15	34.000
1998	14	62.000
2000	10	94.551
2002	9	71.064
2005	11	55.141

¹ Textile Outlook International, July-August 2006

² Ibid

³ Textile Outlook International, September-October 2006

⁴ Modint handelsstromen analyse- february 2007

⁵ Ibid

For 2005 **Thailand** appears in the top-10 producing countries for the Netherlands for 12 out of 29 product groups.

Product	Rank	Growth 2003-2005
Bathing suits	6	-68%
Bras	6	- 47%
Men's casual trousers	8	16%
Ties	8	-
Jeans	7	79%
Costumes	8	-
Women's suits	8	-77%
Men's shirts	5	57%
Women's casual trousers	10	41%
Ski wear	8	64%
Men's underwear	6	-
Pullovers	8	- 47%

In 2003 Thailand ranked number 10 on a list of top 20 largest apparel exporters (with the EU taken as a single entity and China mainland and Hong Kong taking position 2 and 3). Thailand exported \$ 2,828 million in 1990 and \$ 3,663 million in 2003.

Although the global value chains in textiles and clothing are primarily buyer-driven, FDI plays an important role at the production stage. In many developing countries, foreign affiliates dominate such exports, and some producers have emerged as major trans national players, controlling production plants in several countries.

During the period 2002-2004, a total of 275 FDI projects related to the manufacturing of textiles and clothing were recorded.

38 % of these projects were in developing Asia. The leading destinations in this region were China (48 projects), India (9), Vietnam (8) and Thailand (8). The CEE countries accounted for another 29 %, with Bulgaria (18), Hungary (13) and Poland (7) as the main targets. Latin America and the Caribbean and Africa attracted 13% and 6% of all projects respectively⁶.

Labour costs per country where FWF is operational⁷

Country	Labour and general costs/ SAM	Total costs/ SAM
Uzbekistan	€ 0,02	€ 0,04
China mainland	€0,03	€ 0,04
Vietnam	€ 0,03	€ 0,04
Bangladesh	€ 0,03	€ 0,05
China coastal	€ 0,04	€ 0,05
India	€ 0,03	€ 0,06
Ukraine	€ 0,08	€ 0,09
Macedonia	€ 0,08	€ 0,10
Thailand	€ 0,09	€ 0,10
Romania	€ 0,08	€ 0,11
Bulgaria	€ 0,09	€ 0,11
Tunisia	€ 0,10	€ 0,11
Latvia	€ 0,09	€ 0,12
Poland	€ 0,18	€ 0,14
Turkey	€ 0,11	€ 0,15
Portugal	€ 0,11	€ 0,21
Netherlands	€ 0,38	€ 0,40

SAM = standard allowed minute

The figures are based on a model factory of 140 workers. SAM is based on direct and indirect labour costs including bonuses, average working time per year, industry specific productivity levels, depreciation of building and machines, interests. Logistical costs are included in the total costs.

⁶ TNC's and the removal of textiles and clothing quotas, UNCTAD, 2005

⁷ source: 'Global Sourcing reference' by Consultancy Kurt Salmon Associates, 2005

In 1995 the Thai apparel industry had reached its peak. After that the role of Thai apparel decreased, ranking fifteenth in world market share in 2001. Profit margins decreased because of international competition and increasing interdependency between raw material producers, large garment producers and sub-contractors.

The export value of Garment and Textile product⁸

ITEM	Growth (%) 05/04	Value (Million US\$)		
		2005	2004	2003
Textile (Code 301000000)	4.7	6,699.6	6,399.9	5,465.3
1. Articles of apparel and clothing accessories	2.1	3,469.4	3,397.3	3,017.5
1.1 Garment	1.9	3,150.6	3,092.6	2,760.2
1.1.1 Garment : cotton	8.0	1,540.6	1,426.6	1,218.0
1.1.2 Garment : man-made fibre	-1.5	748.4	760.0	717.1
1.1.3 Garment : silk or silk waste	-3.1	15.7	16.2	12.7
1.1.4 Garment : wool or fine animal hair	-39.3	56.3	92.8	76.3
1.1.5 Garment : other textile material	0.6	544.1	540.6	455.6
1.1.6 Babies garments	-4.3	245.5	256.5	280.4
1.2 Brassieres,corsets,and parts there of	9.7	249.9	227.9	187.7
1.3 Panty hose,tights,stockings sooks	-9.2	59.4	65.4	58.1
1.4 Gloves	-16.7	9.5	11.4	11.4
2. Woven fabrics and yarn	7.2	1,838.4	1,714.4	1,414.5
2.1 Woven fabric	4.6	1,082.4	1,034.9	874.7
2.1.1 Woven fabric : cotton	2.6	396.9	386.8	320.6
2.1.2 Woven fabric : man made fibre	5.8	597.9	565.0	482.0
2.1.3 Woven fabric : silk or silk waste	2.1	14.3	14.0	12.3
2.1.4 Woven fabric : other textile material	6.1	73.3	69.1	59.8
2.2 Yarn and man-made filament	11.3	756.0	679.5	539.8
2.2.1 Cotton yarn	12.6	150.2	133.4	122.3
2.2.2 Man-made filament yarn	10.9	605.8	546.1	417.5
3. Household textile	5.8	240.9	227.6	182.2
4. Man-made filament and staple fibres	6.8	443.7	415.6	291.8

⁸ Information and Communication Technology Center with Cooperation of The Customs Department, Compiled by Textile Information Center, Thailand Textile Institute

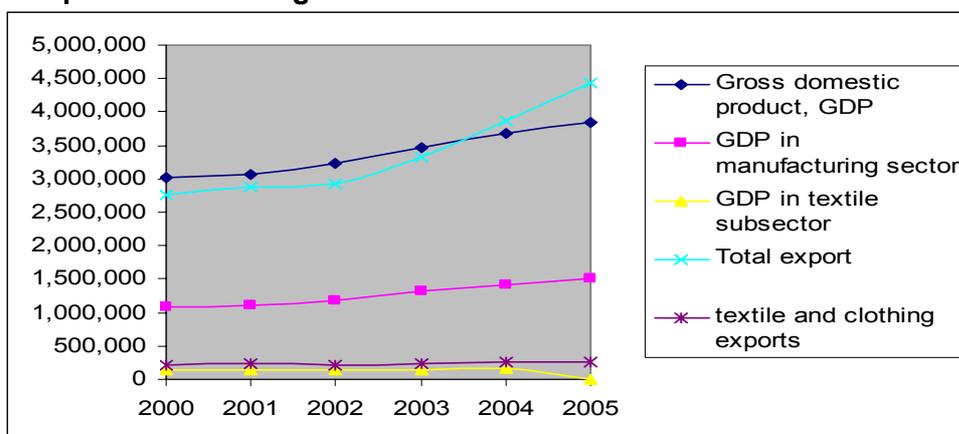
5. Embroidery and lace	14.0	117.3	102.9	108.2
6. Fishing nets	18.0	66.7	56.5	54.8
7. Shawls, scarves, mufflers, viels	-12.7	7.7	8.8	9.0
8. Other made up articles, dress patterns	-8.6	45.5	49.8	34.7
9. Other textiles	10.1	470.1	426.9	352.5

Each year the textile industry generates at least 200,000 million baht from exports, equivalent to 5.7 per cent of Thailand's overall export value in 2002⁴. In 2000 the sector generated around 7 percent of GNP⁵.

Comparative GDP of garment to other sectors

	2000	2001	2002	2003	2004	2005
Gross domestic product, GDP	3,008,401	3,073,601	3,237,042	3,464,701	3,678,511	3,842,527
GDP in manufacturing sector	1,096,168	1,111,457	1,190,807	1,317,235	1,425,018	1,503,457
GDP in textile subsector	146,233	144,641	147,187	148,319	157,501	na
Total export	2,768,065	2,884,704	2,923,941	3,325,630	3,874,824	4,436,676
textile and clothing exports	223,512	235,044	220,962	226,433	254,705	266,696

Comparative GDP of garment to other sectors



The export value of Thai goods⁹

items	2001	2002	2003	2004	2005
Computer product and parts	7,947.5	7,430.3	8,189.6	9,185.7	11,848.0
Automotive / auto parts and accessories / machinery	2,655.0	2,919.7	3,965.5	5,495.6	7,745.5
Electrical products and parts	3,512.2	3,308.0	4,624.6	4,902.8	5,950.6
Rubber	1,326.0	1,740.2	2,787.7	3,428.9	3,710.0
Plastic products	1,615.0	1,775.2	2,148.4	3,105.2	4,198.5

⁹ Information and Communication Technology Center with Cooperation of The Customs Department

Gems and Jewelry	1,837.2	2,169.3	2,514.5	2,645.6	3,232.7
Television and parts	1,692.8	2,094.6	2,501.8	3,225.1	3,141.8
Garment	2,914.4	2,721.5	2,760.2	3,092.6	3,150.6
Iron Steel and products	1,091.4	1,249.7	1,687.2	2,478.1	2,898.0
Chemical	1,015.1	1,193.0	1,581.4	2,059.2	2,646.8
Seafood frozen and cannery	2,014.5	2,016.6	2,135.8	2,256.5	2,501.1
Rubber Product	1,095.1	1,260.3	1,556.4	1,944.6	2,351.2
Rice	1,582.7	1,631.7	1,832.8	2,692.1	2,327.1
Electricity good and parts	873.6	957.9	1,080.0	1,935.4	2,301.8
Air conditioning and parts	1,160.5	1,108.3	1,430.3	1,997.8	2,201.4
automotive auto part and accessories	861.0	930.3	1,245.1	1,672.0	2,113.9
plastic products	860.3	954.4	1,236.2	1,410.9	1,774.7
automotive auto part and accessories	287.0	346.0	547.8	1,245.4	1,380.0
Raw oil	313.2	457.6	651.5	835.1	1,388.0
Top 20 items	35,799.6	37,309.3	45,497.2	57,372.1	69,213.8
others	29,383.6	30,847.0	34,542.8	39,158.9	41,739.5
Grand Total	65,183.2	68,156.3	80,040.0	96,531.0	110,953.3

Although textiles and clothing no longer rank first among Thailand's exports, in 2002 the industry still rated 4th on the list of export industries in the country. In that year the total export value of the top ten industries was equivalent to \$ 25,729.1 million and accounted for 40.6 percent of the total export value of the country⁶.

The top ten export products of Thailand included:

- | | |
|---|--------------------|
| 1. Computer and spare parts | \$ 6,883.8 million |
| 2. Electric supplies | \$ 3,141.8 million |
| 3. Automobile and spare parts | \$ 2,713.9 million |
| 4. Textile and garments | \$ 2,480.4 million |
| 5. Ornament and jewellery | \$ 2,001.4 million |
| 6. Television sets | \$ 1,953.3 million |
| 7. Canned seafood and processed food products | \$ 1,855.7 million |
| 8. Plastics | \$ 1,642.7 million |
| 9. Rubber | \$ 1,568.8 million |
| 10. Rice | \$ 1,437.3 million |

Despite the fact that the significance of the textile and clothing industry is on the decline, the revenue generated from textile exports is still higher than that of rice export, which is the major agricultural product of the country.

In order to adjust to the new trade rules that were going to take effect after 2005, the government and the employers in the textile and clothing industry took several initiatives. On October 15, 1996, under the ministry of industry the Thailand Textile Institute was estab-

lished: "All parties involved shared the goal of forming an autonomous organization to develop the potential of the Thai Textile Industry for sustained competitiveness in the global textile market. The two main objectives under the first master plan (1997-2001) were to upgrade the entire textile industry to enable Thailand to become a quality textile manufacturing country rather than a low-cost one, and to equip the Thai textile industry with the readiness to enter a value added age similar to industries in developed countries"⁷.

The Institute came up with a master plan called the Bangkok Fashion City Project in order to develop Thailand as trade and fashion centre in South and South East Asia; to raise product quality and standards and have more diversity; to improve effectiveness and management; to promote and connect the industry; to promote and support the bleach-dye industry; for human resource development and to define government and private sector's roles in improvement⁸.

Large buyers of Thai merchandise threatened to switch sourcing to other countries if compliance with quality, cost, and delivery requirements could not be met. In order to combat these threats, various government agencies and the Thai Garment Manufacturers Association spent years on initiatives to develop the industry and improve the country's supply chain performance⁹. The goal has been to certify textile and garment factories, thus making them attractive to foreign buyers¹⁰. For example, in 2001 the Tax Department, Port Authority of Thailand and Foreign Trade Department introduced the EDI system, an administrative system which transfers information faster than traditional messengers. It allows for faster issuing of apparel export guarantee documents. Exporters are able to register as EUI (electronic user interface) members since 1 January 2001. 108 exporters have applied to be members¹¹.

At the same time the Ministry of Labour formulated a plan to increase the ability of Thai entrepreneurs to compete, to keep jobs for millions of Thai workers and to minimize the negative impact on the overall economy¹². In December 2001, the Thai cabinet accepted a resolution in support of a project to develop the Thai Labour Standard for Thai industry to gain international acceptance¹³.

Further the Thai Garment Manufacturers Association launched the idea to create its' own brand 'Thai Go' to promote value added products that could be sold at the international market for a price three times higher than CMT production¹⁴. Another Thai brand was launched called 'Thaksino', named after former Prime Minister Thaksin. The Bangkok Fashion City project was to promote these brands¹⁵. In 2006 the appointed government decided to scale down the support of Bangkok Fashion City project.

From the editorial page of the Nation on 5 November 2006¹⁶:

Cut according to the cloth; The previous government's Bangkok Fashion City project should be scaled down and rationalised

The Bangkok Fashion City initiative was typical of former prime minister Thaksin Shinawatra's numerous pet projects based on some hastily-put-together ideas, which were attractively packaged by professional marketers and then pompously promoted with copious amounts of taxpayer money. That was how Thaksin burnished his image as a visionary leader, made a few headlines and scored short-term political points with his supporters, who seemed to have insatiable appetite for either populist policies or grandiose schemes.

During his five and a half years in power, virtually no attempt was made to evaluate whether any of Thaksin's projects served their intended purposes, or whether they were implemented in a cost-effective manner. The overthrow of Thaksin's government in a military coup last month led to a rethink of many of his extravagant projects.

The Bangkok Fashion City project was launched with much fanfare in July 2003, with a budget of Bt1.83 billion, while the private sector chipped in another Bt487 million. The aim was to make Thailand a centre of regional fashion by 2005 and a global fashion hub by 2012.

A working committee, comprised mostly of private sector representatives, was set up to devise ways to train 600 selected students and skilled workers in three key areas: fashion design, fashion management and production techniques. A learning and research centre was also set up to monitor fashion trends and the worldwide fashion industry to enable professionals and students to keep abreast of new developments as they happened.

According to Thaksin, Thailand could take a shortcut to become one of the leading trend-setters in the world of fashion through the careful nurturing of its longstanding cultural heritage and the availability of a vast pool of people with a high degree of craftsmanship. It followed that all it would take to propel Thailand onto the global fashion scene was to identify a new crop of talent and train them into front-rank designers who could somehow transform Bangkok from its lowly status as a garment manufacturing centre, known more for cheap labour than world-beating designs, into another Milan, Paris or New York.

If only it were as simple as one, two, three.

After a careful assessment of the Bangkok Fashion City project, the Surayud government announced that it would stop injecting public funds into the project for the fiscal year 2007 because there is still some unspent budget that can be used. The private sector, including the textile, garment, leather, footwear, gems and jewellery industries, will be asked to take over much of the responsibility, including funding and promotional activities, in the coming years.

But it would be wrong of the government to wash its hands of the Bangkok Fashion City project altogether. The future democratically elected government, rather than spending silly money on extravagant fashion shows, should find more cost-effective and innovative ways to support the upgrade of the country's textile, garment, leather, footwear, gems and jewellery industries with a view to adding more value to their products.

Developing new talent and instilling in them entrepreneurial skills will take time and effort. Specialised education, such as fashion-and-textile design schools to train budding talent in the necessary tricks of the trade, and materials science and technology institutes, should be supported jointly by the public and private sectors. This will ensure that the upgrade of relevant industries goes hand in hand with the development of a new generations of fashion designers.

It cannot be emphasised enough that the only way for Thailand - which is fast losing its competitive edge as a low-cost producer of textiles, garments, leather and footwear to lower-wage countries like China and Vietnam - to survive in the global economy is to move up the value chain. Failure by these industries, which together employ hundreds of thousands of people, to upgrade and add more value to their products would prove disastrous.

The Bangkok Fashion City deserves continued support from the future government. The way to do it is not to squander taxpayer money on costly, attention-grabbing events as Thaksin did, but rather to spend public funds wisely and in innovative ways.

The Board of Investment (BOI) has provided a lot of support to promote investment for exports from Thailand. From 1998 to 2002, BOI supported 120 projects in the textile sector, which according to the organisation created 70,208 jobs. While tax exemptions and investment promotion should create employment, regarding the legal implications of labour management the BOI starts by saying: 'In general Thai labour laws provide for considerable freedom in managing labour'¹⁷.

The improvement of supply chain management (SCM) has been an important issue particularly since 1992, when the world was entering globalization and internet technology was increasingly being used. The Industry Ministry, the Thai Textile Development Foundation, together with Columbia Sportswear Company and Rungsit University studied the apparel industry to improve the supply chain in the Thai textile industry. The Thai Textile Institute set up a training project on 'supply chain management' in 2002 by experimenting with factories to join the project. Supply Chain Management (SCM) was brought about to reduce problems on managing stock and allowed businesses to respond more quickly to customer needs¹⁸.

In addition to the Bangkok Fashion Centre project, promotion through the BOI and Thai Labour Standards 8001, the Thai government has developed Special Economic Zones. Export processing zones have been transformed into Special Economic Zones (SEZ), covering not just export manufacturing goods any longer, but 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 the national election on February 6, 2005.

The SEZ policy raised concerns of many civil society groups in Thailand. “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”, said Phrasri Pariyatmoli, deputy rector of Chulalongkorn Ratchawithayalai. He also says that “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”¹⁹.

For labour organizations, one of the 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 of migrant workers from Burma, there are currently over 200 factories. These workers are facing the worst form of employment and have most of their rights violated.

To attract FDI in trade and investment, Thailand has signed FTAs with some of the world's biggest consumers – US and Australia, in particular. The Free Trade Agreements that the Thai government has signed and is in the process of signing open up the country to full trade competition with no tax barriers. The export promotion department claims that Thailand will benefit from FTA's and that the textile and garment export will increase.

From reading hundreds of news clippings, these are some of the likely consequences of the new policy climate, including the end of the MFA, the signing of the FTAs and the SEZ legislation:

- Closing down of production plants and ending the use of sub-contracting factories. Industry is moving back to big factories that may complete production in a short time
- Small and home-based subcontracting factories will be facing the biggest problems with the end of quotas.
- 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 are labelled as Made in Thailand. This is to secure entry in US and EU markets, pending China's full accession to WTO [2008].
- In the cycle of relocation after 1997, many Thai clothing manufacturers downsized the factories in Thailand and moved to Cambodia, Laos, Vietnam and China. However, Thai businesses are starting to move back to Thailand claiming that the production in neighbouring countries are not up to 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 is offset by Thailand signing of FTAs.

It is said that the future for manufacturers who want to survive post-2004 rests in full-service factories building long-term collaboration with the world's leading retailers²⁰.

2.1. Areas where garments are produced

From the record of over 2,532 garments factories register with the Ministry of Industry, the garments factories are still very much concentrated in Bangkok and its suburb provinces in the same wage scale, i.e. Samutprakarn, Nonthaburi, Pratumthani, Nakornprathom. The rest of the garment factories in Thailand are located at the lowest wages scale in many provinces in Northeast region [Khon Kaen, Chaiyaphum, Nakorn Ratchasima, Burirum, Surin].

Department of Export Promotion has listed the companies under the textile, garment and fashion categories for 957 Companies¹⁰.

¹⁰ http://203.155.213.145/Center_Public/list_exporter.html



The Eastern seaboard area contains over 40% of the industrial zones in Thailand¹¹.

¹¹ The life of football factory workers in Thailand, Junya Lek Yimprasert, Thai Labour Campaign, June 30, 2006

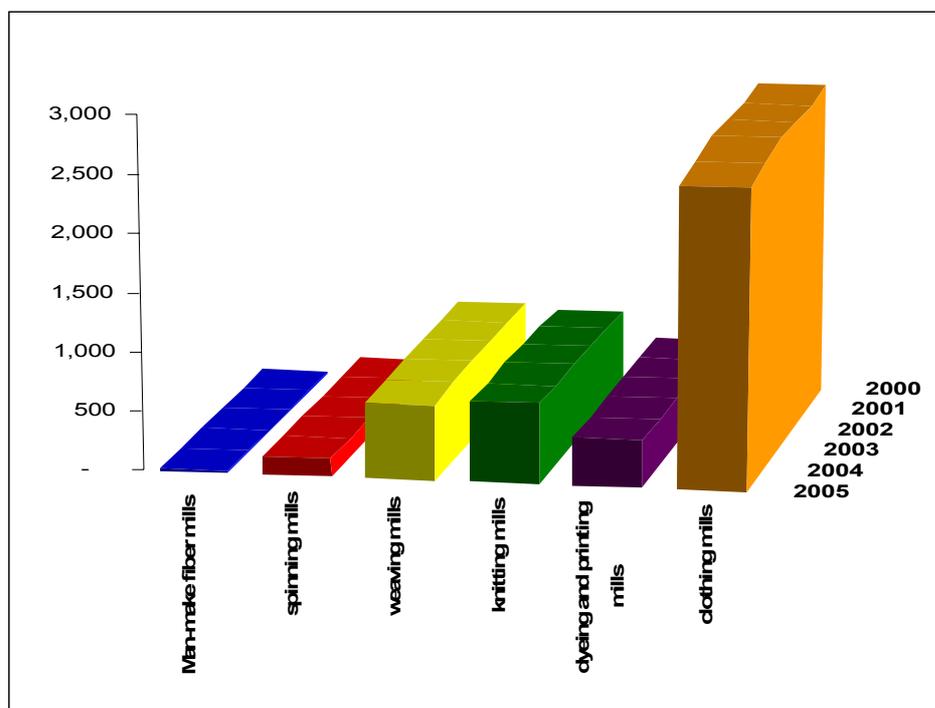
Number of Establishment 2000-2005

	2000	2001	2002	2003	2004	2005
Man-make fiber mills	17	17	18	18	17	17
spinning mills	148	149	150	154	152	153
weaving mills	677	675	681	673	661	636
knitting mills	631	657	664	675	658	684
Dyeing and printing mills	412	405	409	414	404	409
clothing mills	2,672	2,641	2,648	2,658	2,588	2,541

Source: Department of Industrial Works, Ministry of Industry

In this number approximate 1,613 factories are register in Bangkok alone, and another 304 factories total of 1,917 factories out of 2,541 factories are concentrated in suburb [the same wage scale] of Bangkok, in percentage is 75%, employing over 825,650 workers are concentrated in Highest wage scale. However, be noted that the Mae Sot, a small town border of Thailand and Burma, have 65 factories registered. However, comparing to the number of workers, between 2001 and 2005, the significant declining in numbers of employment are in knitting, decline 118520 workers in 2001 to only 60,790 workers in 2005.

Number of Establishment 2000-2005



2.2. Statistical data on garment production

Thailand exported textile and clothing products for the first time in 1972, generating 674 million Baht in export value out of which 40 per cent were garments²¹.

Textile and clothing production grew at an increasing rate, partly due to the growing domestic market and because of the expansion of the export market.

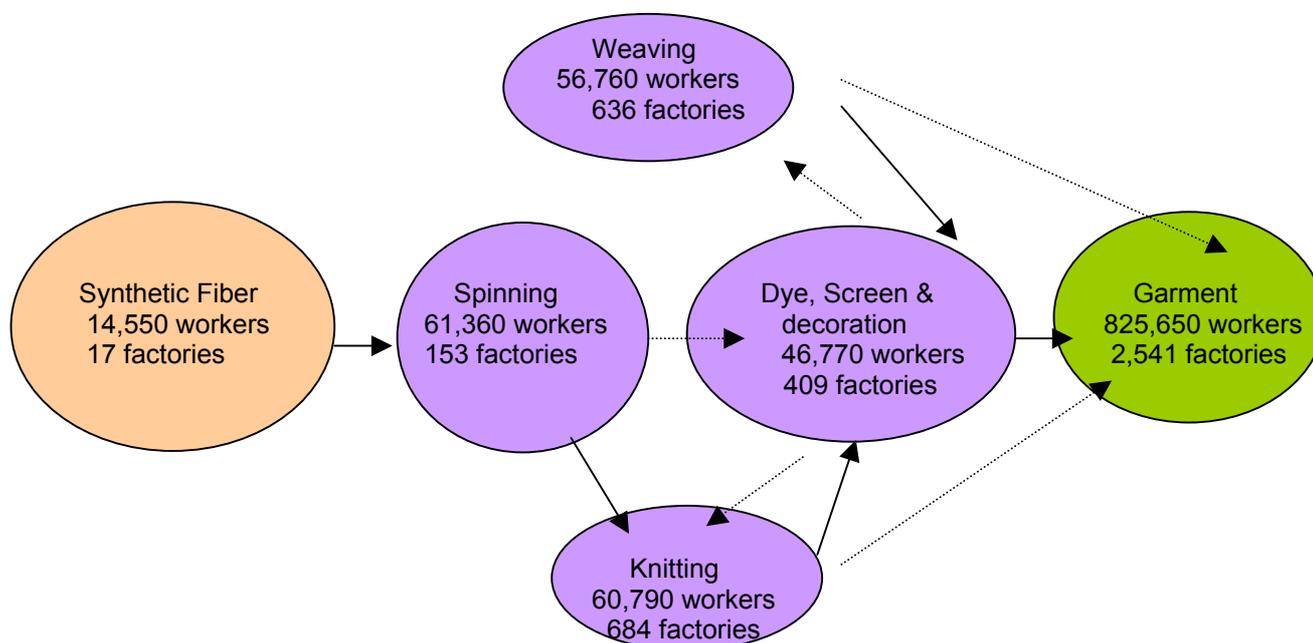
The peak time of expansion:

1975: 488 million pieces

1985: 946 million pieces

1992: 2,242 million pieces

Apparel industry structure in 2005



Source: Industry Department

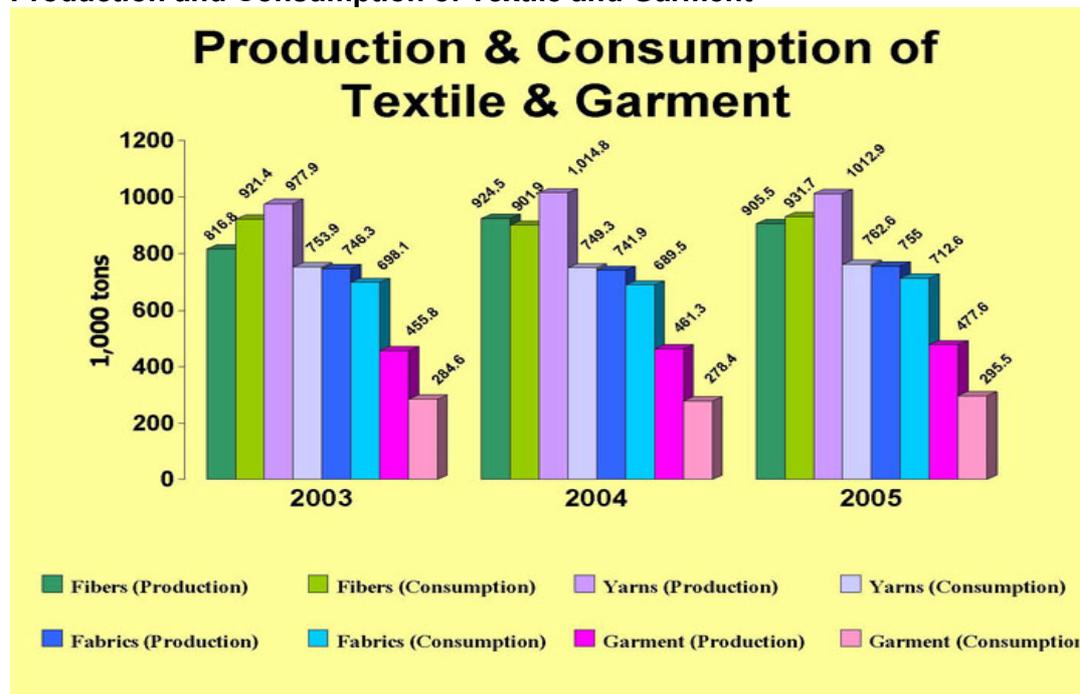
2.3. Raw material

Imported of material -- top three country

product	country	value (million baht)				
		2001	2002	2003	2004	2005
Clothing	China	2,714.3	2,465.2	2,668.7	3,256.2	2,588.2
	Hong Kong	421.8	501.9	491.6	718.5	544.9
	Italy	114.8	139.6	205.8	227.3	352.3
Cotton Fiber	USA	4,514.0	6,307.4	7,154.5	7,214.1	8,639.5
	Australia	7,077.3	4,948.7	3,405.2	3,982.6	4,140.2
	Zimbabwe	2,108.3	1,075.4	731.6	1,649.6	1,685.4
cotton fabric	China	3,092.3	3,533.5	4,155.7	5,007.1	5,623.7

	Japan	1,004.6	1,428.9	1,343.2	1,072.1	1,489.3
	Hong Kong	937.4	1,104.5	1,060.5		
Man-made fabric	china	3,766.9	3,569.3	3,701.6	3,749.6	423.4
	Taiwan	5,855.1	4,395.8	3,342.5	3,198.0	2,361.0
	Japan	1,523.9	1,534.0	1,416.4	1,413.6	1,326.2
Man-made Yarn	Japan	1,116.7	1,327.1	1,635.8	2,232.7	2,514.3
	Taiwan	1,661.7	1,997.6	1,789.3	2,021.7	1,935.7
	Indonesia	2,024.7	1,862.4	1,337.8	1,523.5	1,843.9
Yarn	China	4,757.8	3,933.3	3,964.9	3,802.0	4,195.2
	Japan	1,345.1	1,460.8	1,759.1	2,614.8	2,621.1
	Taiwan	1,849.6	2,183.6	1,884.8	2,079.7	1,977.5
Knitted Fabric	Taiwan	3,719.8	19.2	1,143.9	90.5	1,246.9
	China	2,110.5	976.5	1,040.1	990.1	733.8
	Hong Kong	816.5	309.8	302.9	461.4	409.7
Fiber	USA	4,807.8	6,512.7	7,308.7	7,435.5	8,872.9
	Australia	8,967.7	7,293.7	5,724.2	6,374.4	6,057.6
	Japan	1,819.5	1,829.9	1,502.6	1,504.4	1,803.2

Production and Consumption of Textile and Garment



Source: Textile Intelligent, www. <http://www.thaitextile.org/>

2.4. Description of types of garment production

Thai Textile & Clothing Import 2003-2005 Value (Million US\$)

Code	ITEM	Growth (%) 05/04	2005	2004	2003
	Total	6.1	3,392.0	3,198.4	2,887.1
204030200	Textile Machines	-1.5	420.2	426.6	427.0
307000000	Yarn and Fibers	6.0	1,296.1	1,223.0	1,094.8
307010000	Textile Fibers	8.5	760.1	700.6	655.2
307020000	Textile yarn and thread	0.6	439.1	436.6	369.2
307030000	Other textile materials	13.1	97.0	85.8	70.4
308000000	Fabrics	10.1	1,339.4	1,216.2	1,100.2
308010000	Fabric : silk	-17.9	4.6	5.6	2.7
308020000	Fabric : wool or fine animal hair	-12.0	33.0	37.5	30.3
308030000	Fabric : cotton yarn	10.7	302.5	273.2	256.2
308040000	Fabric : synthetic fibres or artificial fibres	-5.0	304.8	321.0	309.7

308050000	<i>Other Fabrics</i>	20.0	694.6	578.8	501.3
413000000	Clothes, Footwear and other textiles	1.1	336.3	332.6	265.1
413010000	Clothes and clothing accessories	-11.6	129.8	146.8	113.5
413010100	Suits	25.0	1.5	1.2	0.6
413010101	<i>Men's or boys' suits</i>	28.6	0.9	0.7	0.4
413010102	<i>Women's or girls' suits</i>	20.0	0.6	0.5	0.2
413010200	Shirts/Blouses	57.0	20.1	12.8	10.5
413010201	<i>Men's or boys' shirts</i>	60.4	7.7	4.8	3.1
413010202	<i>Women's or girls' shirts/blouses</i>	53.1	12.4	8.1	7.3
413010300	Jackets and blazers	100.0	6.4	3.2	2.6
413010301	<i>Men's or boys' jackets and blazers</i>	100.0	2.2	1.1	1.2
413010302	<i>Women's or girls' jackets and blazers</i>	100.0	4.2	2.1	1.4
413010400	Trousers, Skirts and Accessories	50.2	32.3	21.5	18.6
413010401	<i>Men's or boys' trousers, skirts and accessories</i>	63.6	7.2	4.4	3.9
413010402	<i>Women's or girls' trousers, skirts and accessories</i>	46.8	25.1	17.1	14.6
413010500	Underwear and Bathrobes or Dressing gowns	-14.3	45.0	52.5	36.5
413010501	<i>Men's or boys' underwear & bathrobes or dressing gowns</i>	37.5	1.1	0.8	0.7
413010502	<i>Women's or girls' underwear & bathrobes or dressing gowns</i>	-15.1	43.9	51.7	35.8
413010600	Other garments	-56.1	24.4	55.6	44.8
413010601	<i>Men's or boys' night-dresses and pyjamas</i>	-100.0	0.0	0.1	0.2
	<i>Women's or girls' night-dresses and pyjamas</i>	100.0	0.4	0.2	0.3
413010603	<i>other garments</i>	-56.6	24.0	55.3	44.3
413030000	Other textile products	24.7	145.2	116.4	88.8

2.5. Description of the production network.

The apparel industry in Thailand is related to associations all over Asia. Relationships with the manufacturers extends to Cambodia, Laos and Vietnam. On the fabric and accessories

side, the sector has well established relationships with China, Hong Kong, Korea and Taiwan.

In 2000, almost 70% of Thailand's workplaces had less than 10 employees. When foreign investment is examined, it has been the myriad of small factories established by investors from Hong Kong, Taiwan, Japan and South Korea that have changed the manufacturing landscape in Thailand. Many of these firms employ less than 500 workers. In 2000, only a third of employees in the manufacturing sector were working in companies employing 500 or more employees. Hong Kong is one of the top investors in Thailand since the 1960's. Hong Kong Foreign direct investment is significant in Thailand, where it ranks third. Most of this investment has been to SME's in export manufacturing sectors¹².

In the early period of the textile and clothing industry in Thailand, the families that had been involved in the textile business included the Adireksarn-Thai Textile Industry, the Photirat-tanangkul – Thai Blanket Industry, the Darakanont- Saha Union which had a monopoly over the clothing equipment market, the Chokwattana –Sahapat and Pan Group which control much of the clothing and shoe productions in the country. At present Saha-Union and Saha-pata are the largest textile and clothing conglomerates in Thailand. The two groups both started their business in 1972 and have expanded their investment into other industries.

Saha-Union

Saha-Union was established by the Darakanont Family, who are relatives of Tiem Chokwattana of Sahapat Group.

Saha Union group owns 8 factories for textiles alone, covering the whole production chain. Total investments of the group cover 4 industrial sectors: 19 companies in textile and clothing manufacturing; 3 companies in electronics and computer; 11 power companies in China; and 30 companies in retail and service sector.

Revenue (2002): 8 textile companies generated the gross revenue of Baht 6,864 million - Baht 2,724 million from export and Baht 4,139.1 million from the domestic market; 3 shoe companies generated a gross revenue of Baht 3,177.7 million - Baht 2,768.9 million from export and Baht 408.8 million from the domestic market; 8 companies manufacturing plastics, rubber and metal products generated a gross revenue of Baht 2,890 million – Baht 1,687.6 million from export and Baht 1.202.4 million from domestic market.

Sahapat Group

Sahapat's investments cover many industrial manufacturing sectors including textile, clothing, shoes and others. Also Sahapat Group adopts the strategy of investing in the whole production chain – basic raw materials, equipment etc. Sahapattana Inter Holding Co Ltd is the main company under the management of Mr Boonsit Chokwattana. It has more than 250 subsidiary companies. The business of Sahapat covers 12 sectors: Garment, Textile, Leather, Shoes, Cosmetics, Home Equipment, Food and Beverages, Electronics, Electrical Equipment, Sport Equipment, Logistics as well as sales agent companies²².

The Group also invested in building infrastructure including industrial estates and factories for rent to other companies. The industrial estates are scattered in many regions of Thailand such as 'Ban Pan Industrial Estate' and 'Rojana Industrial Estate' in Ayuttaya, 'Sri Raja Industrial Estate' in Chonburi and 'Kabinburi Industrial Estate' etc.

At present, Sahapat through its subsidiary companies – Bangkok Rubber and Pan Group - is also one of the most important sub-contracting companies of many big brand-name shoe products such as Nike, Clarks, Marks & Spencer and Scholl. In 2002 the total export value of

¹² Hong Kong investors and their labour practices in Thailand; Kevin Hewison, Stephen Frost, Catherine Chiu and Mary Ho, July 2006

the Pan Group alone was as high as USD155.47 million, equivalent to 33.7 per cent of the overall export value of sport shoe products from Thailand. The Pan Group, one of the Partner Groups of NIKE has 10 per cent of NIKE's orders. With Feng Tay and Pou Chen²³ having 18 per cent and 17 per cent respectively²⁴, Pan Group is currently the world's third largest subcontracting company for shoe production for NIKE. NIKE has been using training facilities of Sahapat Sri Raja industrial estate for its training courses on shoe manufacturing organized for executives from around the world. In the past these training courses were organized in Indonesia²⁵. In the textile and garment sector, Sahapat owns 33 garment companies and 17 textile companies. The number of companies in this sector reaches 64 if counting also the companies which produce basic production materials and other equipment needed in the manufacturing of textile and clothing²⁶.

As for the medium sized companies, among others Nan Yang Group and Bangkok Textile Group, they have expanded their business in the supply chain as well as in the retail and service sector

Nan Yang Group

Chawalit Tuangsittisombat set up Nan Yang Company in 1957. Nan Yang started out as a garment factory before many more factories covering tread spinning, textile, colour dye and screening were formed under the Nan Yang Textile Group. Apart from owning factories in Nakornsawan province of Thailand, the Group has opened factories in Laos since 1994²⁷. At present the Nan Yang Group owns 13 factories²⁸. Out of the total workforce of 8,000 employed by this Group, more than 5,000 workers are employed in the garment factories²⁹. Factories owned by the Nan Yang Group are: Nan Yang Textiles, Nan Yang Knitting, Nan Yang Fabric, Pioneer Garment, Nan Yang Garment, Charter Print, Novelty Apparel, Finetex, Trimax, Trinity Embroidery, Unimex Apparel, Nuovatex, and Gromax Trading.

Bangkok Textile Group

Bangkok Textile Company was set up in 1950 and is among the oldest textile companies in Thailand, along with and Thai Durable Company and the Thai Blanket Textile Industry (TBI). These companies have experienced many business crises and survived to this day. They are notorious for being hostile against trade unions throughout their history.

In the 80's Bangkok Textile Company was selected as the only official supplier of piece dyed cotton fabrics to Mark & Spencer in Thailand. At the same time the company supplied color fabrics for famous brand-name clothing companies such as Polo, Banana Republic, Gap, Nautica, J. Crew, Nike, Tommy Hilfiger etc.

While the company was experiencing a constant growth over the years, the other side of the picture was the growing illness among the workers caused by inhaling too much cotton dust. Somboon Srikamdokkhae, former union leader at the Bangkok Textile Company who began working in the factory in 1976, along with many other workers started to become sick. Diagnoses of doctor's in 1992 showed the workers were ill of lung infection disease caused by inhaling too much cotton dust at work for long periods of time. 60 % of Somboon's lung capacity has been damaged. According to Somboon, out of 1,700 workers at the company around 500 workers suffered from the lung infection disease due to the cotton dusts problem. 300 workers have received their benefits from the Compensation Fund, but there are 200 workers who have been waiting already 8 years for the court ruling on whether they are eligible to receive benefits from the Compensation Fund.

Thai Garment

Thai Garment is a leader in this business, established in 1966 by Hong Kong business groups, and it has expanded to over three manufacturing factories, employing over 7,600 workers³⁰.

Between 1977 and 1987, the booming period of the industry, a new generation of entrepre-

neers in the clothing industry emerged. The companies of this category include Nice Apparel, Oriental Garment, Asia Garment, Castle Peak and Thai Garment. Most of the owners of these companies started out as employees of Iryo Group.

The new entrepreneurs who played a leading role from 1997 onward included Chawalit Nimlaor³¹ of Oriental Garment and Wiroj Amatakulchai³² of Nice Apparel – both were management employees of Iryo Group. When the opportunity came, they began to take small orders from Iryo Group and used their homes as a production base, apart from working as employees of the company. They began setting up their own factories, some of which got bigger than the company they used to work for.

Apart from Chawalit and Wiroj, there is Boonchoo Pongchalerm of Castle Peak Holding who was a former employee of Lian Thai Textile³³. He is another example of those who were able to set up their own companies after gaining substantial experience working in a garment company “I used to work for Thai Garment Company in the position of manager and later moved to Lian Thai Textile Company”. Nowadays Castle Peak is a garment company which has many subsidiary companies, employing thousands of workers.

Nice Apparel, Oriental Garment and Castle Peak Holding are now taking orders from the famous brand-names. Their business success has led to the opening up of new factory premises, and each group employs at least 3,000 workers. The groups also have increasing bargaining power when they have to deal with the government and each plays a key role in many employer associations.

In 2000, Iryo Garments itself, a unionized factory, closed down without paying any compensation to 1,236 workers. In the end the workers of Iryo Garment who were in the service of the company from 3 to 15 years could only get around 45% of their compensation money.

Manufacturers who produce for large retailers and brands attempt to add value by producing a full package product. Clear examples can be seen in the case of Sahapat Group, Saha Union Group or even in Nanyang Group (Nanyang’s products covers fibre, thread and weaving)³⁴.

Some Examples how Thai entrepreneurs adjusted their strategies³⁵:

1. Saha-Union, Sahapat, Nan Yang: expansion of investment to cover all the production chains
2. Bangkok Textile Group: establishing long term business relationship;
3. Oriental Garment, Nice Apparel; Adjustments to the changes in the textile and clothing industry.

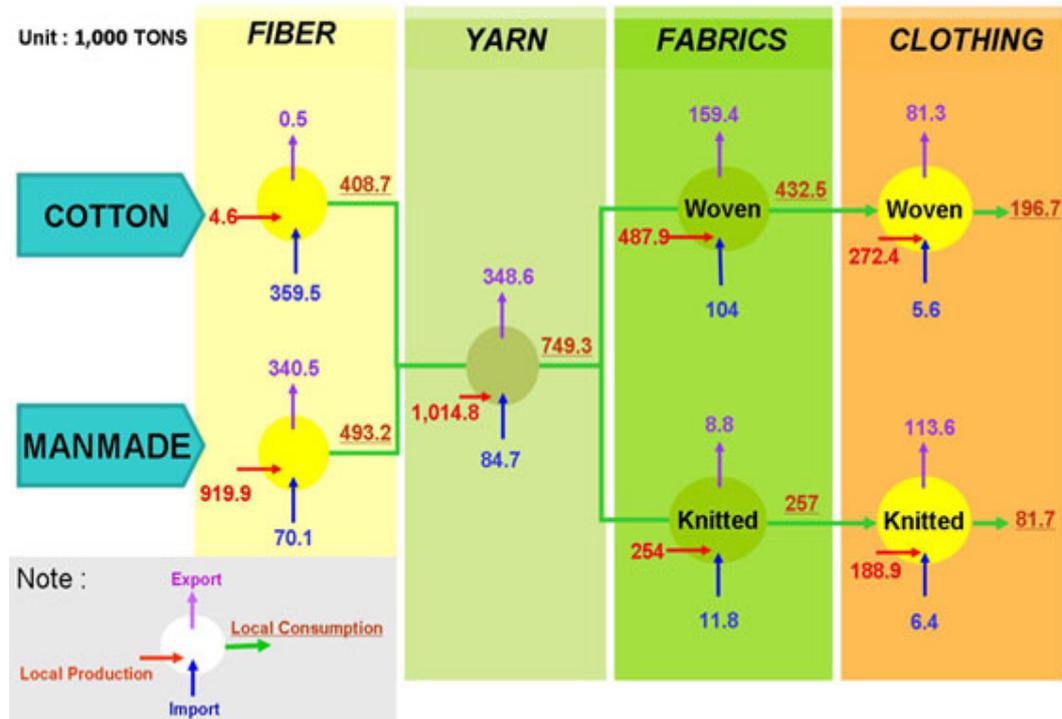
One strategy is to expand business investment to cover the supply chain in order to ensure the money circulation within the group. Thus it has been a trend among the large textile companies to expand their investment in the production of raw materials. The rationale behind this is that, in clothing manufacturing, the cost of the basic raw materials is 60 per cent of the overall production cost.

Relocation

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.

2.6. Description of the supply chain

Textile Value Chain



Source: Textile Intelligent, www. <http://www.thaitextile.org/>

3. Thailand, industrial relations and labour conditions

For most of its history, Thailand was an absolute monarchy changing to a constitutional monarchy following a coup in 1932. Thailand was ruled by a series of military governments interspersed with brief periods of democracy from 1932 until the 1992 elections. Unlike many other developing countries, including its bordering neighbours, Thailand has never been colonized by a foreign power¹³.

The chief of state is King Phumiphon Adunyadet since 9 June 1946. The head of government is interim Prime Minister SURAYUT Chulanon since 1 October 2006. Prime Minister Thaksin Chinnawat was overthrown on 19 September 2006 in a coup led by General Sonthi Boonyaratglin. The legislative branch has a bicameral National Assembly consisted of the Senate (200 seats; members elected by popular vote to serve six-year terms) and the House of Representatives (500 seats; members elected by popular vote to serve four-year terms). After the coup in September 2006, coup leaders appointed an interim National Assembly with 250 members to act as Senate and House of Representatives. Elections for the Senate were last held on 19 April 2006. Last valid elections for the House of Representatives were held on 6 February 2005. Elections held on 2 April 2006 were invalidated by a court ruling. Coup leaders suggest next general election will be held in December 2007¹⁴.

During the aftermath of the 1997 economic crisis, the country's political structure has undergone a series of change. In the late 1997, the new constitution came into force that emphasizes participatory democracy and decentralization to local-level administration, rights based development, and transparency in the state system¹⁵. The constitution was signed by King Phumiphon on 11 October 1997, abrogated on 19 September 2006 after coup and an interim constitution promulgated on 1 October 2006. The coup leaders have promised a new constitution by end of 2007¹⁶.

Thailand among others participates/ is a member of the following international organisations: APEC, ADB, ASEAN, G77, IBRD, IFC, ILO, IMF, UN, UNCTAD, UNHCR, UNIDO, WHO, and WTO.

Thailand is a middle income country that has seen remarkable progress in human development in the last 20 years. It will achieve most if not all of the United Nations' Millennium Development Goals well in advance of 2015¹⁷. Poverty has fallen from 38% in 1990 to 11% in 2004. The proportion of underweight children has dropped by nearly half. Most children are in school, and the average years spent in education is increasing. Malaria is no longer a problem in most of the country. Annual new HIV infections have been reduced by more than 80% since 1991, the peak of the epidemic. Strides are being made toward gender equality. The lives of slum dwellers have improved and some progress has been achieved in tackling urban pollution.

But this progress has not benefited everyone equally. Thailand's cities have grown faster than its countryside. Poverty is still widespread in the rural Northeast, North and South of the country. Household savings have declined, while the incidence and level of debt have increased. Despite a high level of school enrolment, the quality of education and inadequate training for workers hinders Thailand's ability to reap the benefits of globalisation and threatens its future human development.

¹³ Thailand country profile; ILO and Development Cooperation Ireland, March 2003

¹⁴ Ibid

¹⁵ ILO country update 2003

¹⁶ World fact book CIA: <https://www.cia.gov/cia/publications/factbook/geos/th.html>

¹⁷ Thailand Human Development Report 2007; sufficiency Economy and Human Development, UNDP http://hdr.undp.org/docs/reports/national/THA_Thailand/THAILAND_2007_en.pdf

Access to health services is skewed. Maternal mortality remains very high in the Muslim majority area in the far South. Child malnutrition persists among hilltribe people in the remote northern areas. Safety at work is uncertain in industrial zones. Overuse of pesticides is a threat to many in the rural areas. Pollution and natural disasters are on the increase. The HIV/AIDS epidemic is on the move again among at-risk groups in the South and in industrial areas.

Table Human development indicators¹⁸

	Human development index (HDI) rank 2004	Total Population (millions) 2004	GDP per Capita (PPP US\$) 2004	Life expectancy at birth (years)	Infant mortality rate (per 1000 live births) 2004	Adult literacy rate (% ages 15 and older) 2004		Combined gross enrolment ratio for primary, secondary and tertiary schools (%)		Ratio of estimated female to male earned income	Human poverty index value (HPI-1) (%)*
						Female	Male	Female	Male		
Netherlands	10	16.2	31,789	78.5	5	99	99	98	99	0.63	-
Poland	37	38.6	12,974	74.6	7	99	99	90	82	0.59	-
Bulgaria	54	7.8	8,078	72.4	12	97.7	98.7	81	81	0.65	-
Romania	60	21.8	8,480	71.5	17	96.3	98.4	77	73	0.65	-
Macedonia	66	2.0	6,610	73.9	13	94.1	98.2	71	69	0.48	-
Thailand	74	63.7	8,090	70.3	18	90.5	94.9	74	73	0.59	9.3
Ukraine	77	47.0	6,394	66.1	14	99.2	99.7	87	83	0.53	-
China	81	1,308.0	5,896	71.9	26	86.5	95.1	70	71	0.64	11.7
Tunisia	87	10.0	4,688	73.5	21	65.3	83.4	77	74	0.28	17.9
Turkey	92	72.2	7,753	68.9	28	79.6	95.3	63	75	0.35	9.8
Vietnam	109	83.1	2,745	70.8	17	86.9	93.9	61	65	0.71	15.7
India	126	1,087.1	3,139	63.6	62	47.8	73.4	58	66	0.31	31.3
Lao	133	5.8	1,954	55.1	65	60.9	77.0	55	66	0.52	36.0
Bangladesh	137	139.2	1,870	63.3	56	n.a.	n.a.	44	50	0.46	44.2

*This indicator was established for developing countries only

Thailand ranked 70 out of 173 on the UNDP Human Development Index in 2002. Life expectancy at birth was 67.3 years for men and 73.2 for women. Annual per capita GDP was US \$ 6,402. Gross educational enrolment ratio was 60%. Adult literacy rate was 93.9% for women and 97.1 % for men (ILO & DCO, 2003).

Key figures:

Infant mortality rate: 18.85 deaths/ 1,000 live births
 Life expectancy at birth: total: 72.55 years
 Male: 70,24 years
 Female: 74.98 years (2007 est.)
 GDP composition by sector: *agriculture*: 10%
industry: 44.9%
services: 45.2% (2006 est.)
 Labour force: 36.41 million (2006 est.)
 Labour force by occupation: *agriculture*: 49%

¹⁸ Source: Human Development Report 2006 (<http://hdr.undp.org/hdr2006/pdfs/report/HDR06-complete.pdf>)

industry: 14%
services: 37% (2000 est.)
 Unemployment rate: 2.1% (2006 est.)
 Population below poverty line: 10% (2004 est.)
 Exports-partners: US 15.4%, Japan 13.6%, China 8.3%, Singapore 6.9%, Hong Kong 5.6%, Malaysia 5.2% (2005)
 Imports-partners: Japan 22%, China 9.4%, US 7.4%, Malaysia 6.8%, UAE 4.8%, Singapore 4.6% (2005)
 Internet-users: 8.42 million (2005)¹⁹

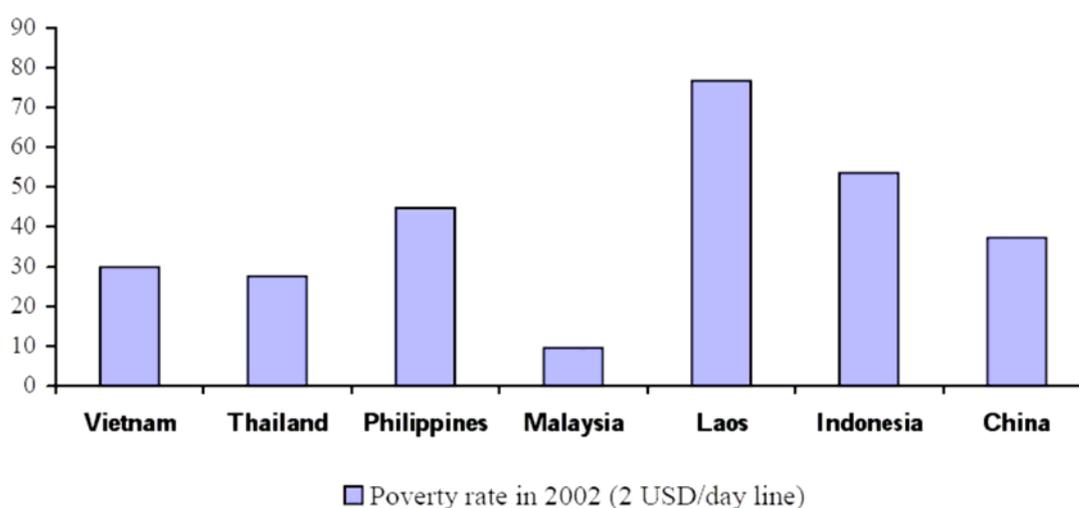
Economic Indicators²⁰

% change from the same period of last year, unless specified otherwise

	2001	2002	2003	2004*	2005*
Thailand's Economic Growth (at constant price 1988)	1,9	5,4	6,8	6,2	5.0-5.5
Private Consumption Growth	3,7	4,9	6,3	5,7	4,0
Investment Growth	0,9	6,5	11,7	15,5	12,5
Growth of Exports (USD millions)	-6,9	4,8	18,6	23,0	12,0
Growth of Imports (USD millions)	-2,8	4,6	17,1	27,0	15,0
Trade Balance (USD millions)	2.525	2.739	4.202	1.682	(948)
Current Account Balance (USD millions)	6.236	7.008	7.975	7.289	4.101
Averaged Headline Inflation	1,6	0,7	1,8	2,7	3,0
Averaged Baht/USD	44,5	43,0	41,5	40,2	38,5

Poverty rates of several Asian countries compared

Figure 16: Poverty rate of some regional countries in 2002



¹⁹ World fact book CIA: <https://www.cia.gov/cia/publications/factbook/geos/th.html>

²⁰ Sources: Kasikorn Research Center (KRC) -forecasted and updated in September 2004.

By 2003, the government had introduced several national social protection measures, including for example, the Education for All scheme, the Universal Health Coverage scheme, and the Village Development Fund (ILO country update 2003).

With a well-developed infrastructure, a free-enterprise economy, and pro-investment policies, Thailand appears to have fully recovered from the 1997-98 Asian Financial Crisis. The country was one of East Asia's best performers from 2002-04. Boosted by increased consumption and strong export growth, the Thai economy grew 6.9% in 2003 and 6.1% in 2004 despite a sluggish global economy. Bangkok has pursued preferential trade agreements with a variety of partners in an effort to boost exports and to maintain high growth. In late December 2004, a major tsunami took 8,500 lives in Thailand and caused massive destruction of property in the southern provinces of Krabi, Phangnga, and Phuket. In 2006, investment stagnated as investors, spooked by the Thaksin administration's political problems, stayed on the sidelines. The military coup in September brought in a new economic team led by the former central bank governor. In December, the Thai Board of Investment reported the value of investment applications from January to November had declined by 27% year-on-year. On the positive side, exports have performed at record levels, rising nearly 17% in 2006. Export-oriented manufacturing - in particular automobile production - and farm output are driving these gains²¹.

The Thailand Human Development Report 2007²² show that Thailand's human development continues to progress, and Thailand is well on track to fulfilling all or most of the Millennium Development Goals. Yet, household income is highly skewed. Pockets of persistent poverty remain. The provision of public goods differs greatly in quality and quantity in different areas of the country. At the same time, there are growing signs of the steep deterioration in the natural environment over the past generation, and of the strains placed on family and community by labour migration.

3.1. Overall labour climate of the country

Effective on 3 October 2002, the Bureaucratic Reform re-organized governmental offices: the Former Ministry of Labour and Social Welfare was split into Ministry of Labour and Ministry of Social Development and Human Security.

Labour issues are covered by the Ministry of Labour and social welfare issues by the Ministry of Social Development and Human Security. The Ministry of Labour is responsible for skills training, labour protection, employment services and social security. The other ministry has the mandate to oversee issues affecting the disadvantaged populations namely, the elderly, the handicapped, women, children and the indigenous. The Ministry of Labour is working towards ensuring compliance of national labour laws with international labour standards. It is preparing for the expansion of labour protection to homeworkers, agricultural workers and other informal-economy workers. In 2003 the Cabinet has approved the implementation of the unemployment Insurance Scheme which took effect from January 2004 and recommended further tripartite consultation (ILO country update: Thailand, June 2003).

Thailand has been one of the founding members of the ILO since 1919. However, the country has only ratified 14 conventions of the ILO out of over 190 conventions. Thailand has ratified four core Conventions (ILO country update: Thailand, June 2003): C.29 Forced Labour, 1930

²¹ World fact book CIA: <https://www.cia.gov/cia/publications/factbook/geos/th.html>

²² Thailand Human Development Report 2007; sufficiency Economy and Human Development, UNDP http://hdr.undp.org/docs/reports/national/THA_Thailand/THAILAND_2007_en.pdf

- C.100 Equal Remuneration, 1951
- C.105 Abolition of Forced Labour, 1955
- C. 182 Elimination of the worst forms of child labour, 1999

The ratification of Thailand on ILO conventions

Convention	Country	Ratification date	Status
C14 Weekly Rest (Industry) Convention, 1921	Thailand	05:04:1968	ratified
C19 Equality of Treatment (Accident Compensation) Convention, 1925	Thailand	05:04:1968	ratified
C29 Forced Labour Convention, 1930	Thailand	26:02:1969	ratified
C80 Final Articles Revision Convention, 1946	Thailand	05:12:1947	ratified
C88 Employment Service Convention, 1948	Thailand	26:02:1969	ratified
C100 Equal Remuneration Convention, 1951	Thailand	08:02:1999	ratified
C104 Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955	Thailand	29:07:1964	ratified
C105 Abolition of Forced Labour Convention, 1957	Thailand	02:12:1969	ratified
C116 Final Articles Revision Convention, 1961	Thailand	24:09:1962	ratified
C122 Employment Policy Convention, 1964	Thailand	26:02:1969	ratified
C123 Minimum Age (Underground Work) Convention, 1965		05:04:1968	denounced on 11:05:2004
C127 Maximum Weight Convention, 1967	Thailand	26:02:1969	ratified
C138 Minimum Age Convention, 1973	Thailand	11:05:2004	ratified
C182 Worst Forms of Child Labour	Thailand	16:02:2001	ratified

The government has indicated intention to ratify all core conventions. The order of priority is as follows: C.138, C.98, C.111 and C. 87. Other conventions in the government's ratification plan include C.155 and C.144.

The ILO is working closely with tripartite constituents on the promotion of these conventions.

Besides governmental units mandated to manage labour-related issues and the application of labour-related laws, there exist other national bodies overseeing protection of worker's rights: the House of Representatives' Committee on Labour, the Senate's Committee on Labour, and the independent body: the National Commission on Human Rights (ILO country update: Thailand, June 2003).

Problem faced by workers in the garment manufacturing:

Flexibilization of employment is heavily in garment industry

From working hour to piece rate system

Domestic relocation

- Relocation from unionised factory to the provincial areas where workers are ignorance to labour protection and labour relation laws and are not organized.
- Relocation form high wage scale to region of cheap wage scale, especially to the Northeast region's provinces which is being promoted by Board of Investment.
- Relocation to border town of Thailand and neighbouring countries to exploit cheap migrant's workers i.e. Burma, Laos and Cambodia, especially Mae Sot.

3.2. Employed Population

Overview of Social Conditions in Thai Society (20/03/2006)

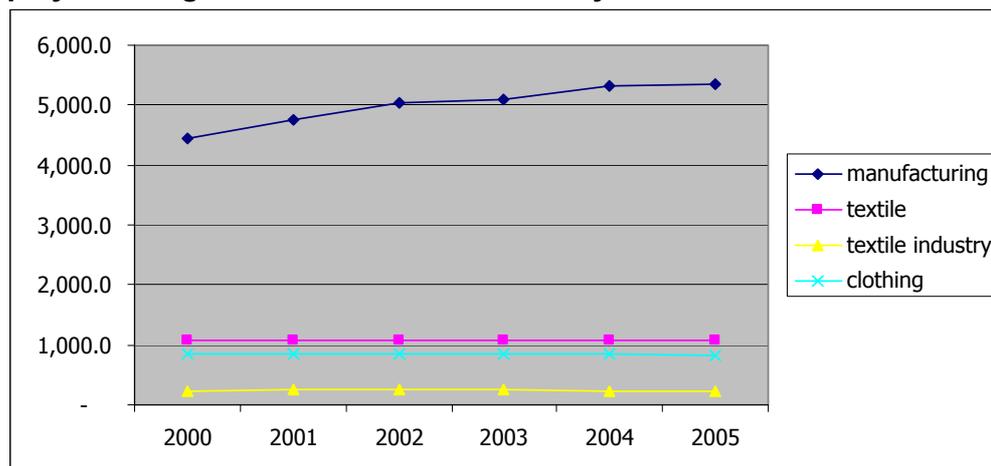
The employment situation in Thailand has improved. The Office of the National Economic and Social Development Board (NESDB), in its overview of social conditions in Thai society in 2005, states that the 2005 employment rate was the highest in the past three years.

According to a study conducted by the NESDB, the number of employed people in Thailand last year rose to 36 million, up from 35.3 million in 2005. The increase was a result of continued economic expansion. The construction sector saw the highest increase in the employment rate, at 20 percent, while the increase in the service sector came to 9 percent, the trade and banking sector, 4.6 percent, and the handicraft and industrial sector, 4.4 percent.

The NESDB believes that the unemployment rate in 2006 will not be higher than 2 percent, when compared with 1.7 percent in 2005. As for the fourth quarter of 2005, the unemployment rate was the lowest in the year, at 1.2 percent. Bangkok saw the lowest unemployment rate of all regions of the country, at only 0.9 percent. The southern region saw the highest unemployment rate, at 1.6 percent, possibly due to unrest in the three southern border provinces.

Source: *Thailand, Public Relation Department:*
http://thailand.prd.go.th/the_inside_view.php?id=1291

Employment in garments and textiles industry



Employment in textile sector

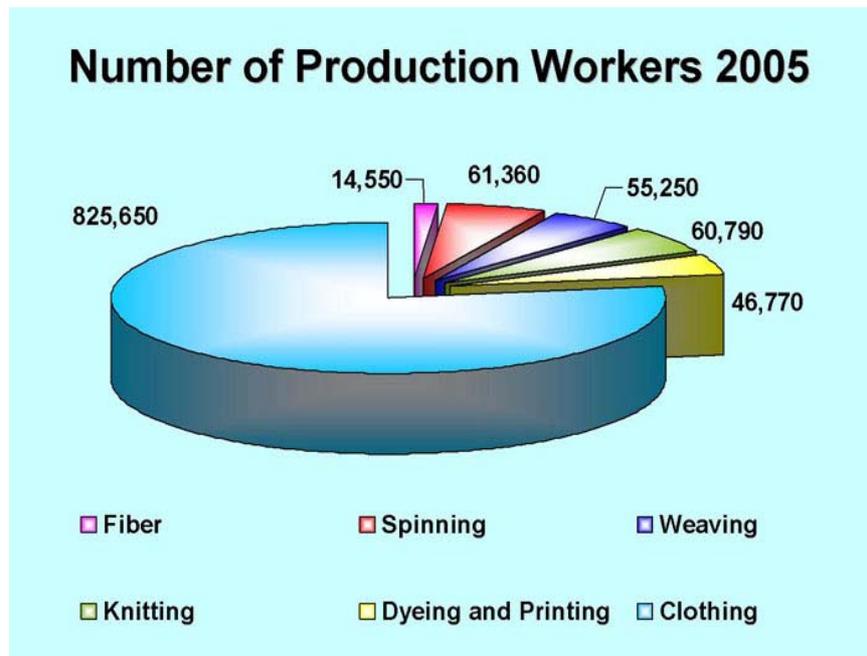
	2000	2001	2002	2003	2004	2005
manufacturing	4,449.5	4,750.4	5,039.7	5,086.3	5,313.4	5,344.0
Textile	1,083.7	1,081.5	1,082.9	1,084.1	1,076.6	1,064.0
textile industry	240.5	241.0	242.0	242.6	238.9	238.3
clothing	843.2	840.5	840.9	841.5	837.7	825.7

Although garment and textiles have low added value to the Thai economy in GDP, the industry employed 20% of the total manufacturing productions. Besides, over 80% of the workforces are women workers of all ages who are earning at the bottom of the wage scale.

In 2000 the sector employed 1,083,700 workers³⁶. In 2002, government statistics recorded over one million workers in the textile industry, equivalent to 22.7 per cent of the workforce in the industrial manufacturing sector, 70 percent of whom are women³⁷.

It was feared that the ending of the quota systems in the garment and textiles industries would drive many small factories out of business and leave 300,000 workers without a job³⁸.

Number of productions workers 2005



Source: Textile Intelligent, www. <http://www.thaitextile.org/>

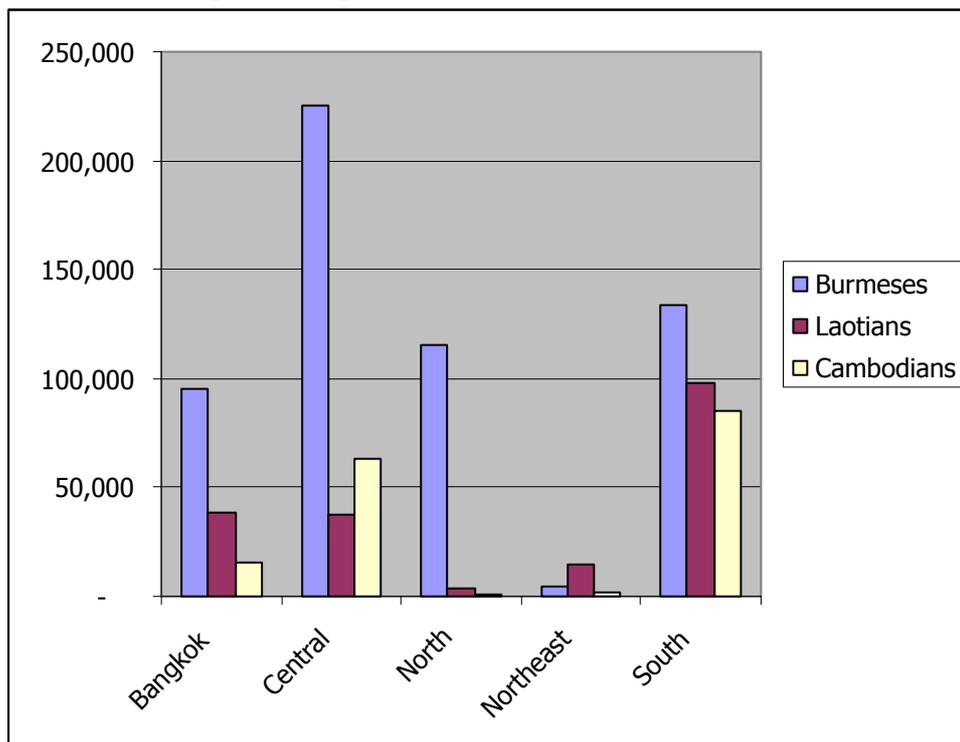
3.3. Source of work force, migration and position of female workers

The employment services are operated by the Department of Employment. There is a network of 84 offices, nine in Bangkok and seventy-five in the provinces. Typically, each office has about three officers to serve both the job seekers and employers. The service includes the provision of free labour exchange, employment counselling and career guidance, job placement services²³.

The statistics presented here represent only those employed in the formal sector, excluding the textile and garment workers employed in the informal sector – currently there is no accurate data on the number of workers employed in the informal sector. There are about two million migrant workers in Thailand. Among this numbers, Burmese migrants workers are about 75%, 1,7 millions, estimate that there are over 200,000 Cambodians and 100,000 Laos working in Thailand, legally and illegally.

²³ ILO & DCI, 2003

Migration from neighbouring countries:



Source: The Ministry of Labour

Summary of 'The Mekong challenge; underpaid, overworked and overlooked- the realities of young migrant workers in Thailand'²⁴

Most of the migrants surveyed were Burmese, with a small number of Lao and Cambodian migrants included in the manufacturing and agriculture surveys.

The majority of migrants were registered (i.e. had legal status to work in Thailand) across all sectors. 75 % were aged 18-25 years.

Employers feel that the Thai policy of migrant registration obligates them to restrict migrants' freedom of movement to protect their financial investment in workers (having paid registration fees upfront) and to prevent workers from changing employers.

Only 35.5-% of migrants in agriculture, fishing and manufacturing had possession of their original ID documents. Unregistered (undocumented) migrants clearly lacked any ID documents at all. Where registered migrants are concerned, 36-43% of workers in these 3 sectors did not have possession of their original ID documents.

Fishing and manufacturing workers are paid higher wages (than domestic and agricultural workers) but still only about 60% of the minimum wage they are entitled to, if the number of hours worked, overtime and lack of days off are taken into consideration.

In manufacturing, 25% of workers faced delayed payment and 15% had to pay for mistakes made.

19% of manufacturing workers worked more than 12 hours per day, 84% of manufacturing workers regularly worked more than 8 hours per day. Under the Thai Labour Protection Act, the standard work day is eight hours per day. 13% of manufacturing workers had no regular day off per month.

More than 90% of workers in each of the sectors of agriculture, fishing and manufacturing do not have a written contract of employment.

The migrant registration policy seems to reinforce notions of ownership in the relationship between the employer and the migrant. 56% of manufacturing employers believed that migrants are not entitled under Thai law to leave work premises outside of work hours (without permission). Qualitative inter-

²⁴ 'The Mekong challenge; underpaid, overworked and overlooked- the realities of young migrant workers in Thailand-ILO- the Mekong sub-regional project to combat trafficking in children and women, 2006

views with employers across all sectors showed that employers felt justified in restricting freedom of movement of workers and withholding their documents as a way of protecting their own economic investment given the costs incurred to legally register the workers (e.g. employers who paid the upfront costs of registration).

Employers' attitudes commonly reflect that foreign migrants did not deserve the same rights as Thai workers and therefore they needed to be controlled. Discrimination seems to be a key factor in why some migrants are exploited more than others.

Clearly, migrant workers in these sectors were paid significantly less than the geographically-prescribed minimum wage. The costs of registering migrants are in fact ultimately borne by the migrants and are usually recouped by employers through salary deductions.

Manufacturing in Bangkok and neighbouring provinces

95- 10% of manufacturing workers feel that the fact their employer holds their documents is a constraint preventing them from leaving their job and 9% of workers feel that the threat of the employer reporting them to the authorities also acts as a constraint.

7% of migrants have faced physical abuse from their employers;

84% of migrants work more than eight hours per day;

the average manufacturing worker only receives about two-thirds of what they are entitled to under Thai labour laws (the minimum wage) when the average daily working hours and days per month are considered;

Two-thirds of employers agree with the statement that 'migrants should be locked up at night to prevent them escaping' and more than half of employers feel migrants both should not and are not entitled under Thai law to leave the workplace outside of work hours without permission.

The research focused on small scale garment and textile factories, employing less than 50 workers.

The majority of migrants in manufacturing were female, 64%, the vast majority were adults between 18-25 years, 14% were aged 15 to 17 years.

Registration levels in manufacturing were very high with over 78% of migrants having registered to stay and work in Thailand. Half of the migrants in manufacturing had arrived in Thailand before their reached the age of 18.

Just over one third of registered manufacturing migrant workers surveyed did not hold their original ID documents, for these workers- their documents were held by their employers and migrants held copies only. Of that number 22% could not access their documents when they wanted to.

79% indicated that their employer arranged accommodation for them and 72% lived in accommodation on-site. Of these, 64% indicated their belief that living in the provided accommodation was mandatory, and they could not refuse to stay in the provided housing. Almost two-thirds of employers were of the view that migrants should be locked up at night to prevent them from escaping. 13% of migrants stated that even during their time off they were not able to go out.

7% of manufacturing migrants had experienced physical abuse from their employer or a senior worker. Verbal abuse was fairly common, with almost a third of the sample having experienced verbal abuse within the workplace.

Most worked between 9-12 hours per day and nearly one-fifth worked more than 12 hours per day. Employers also reinforced that fact that workers were expected to work 12 to 14 hours daily.

Two-thirds of migrant Manufacturing workers get one day off per week (65%), 30% has one day off per fortnight. The vast majority, 78% did not have access to paid leave and only one quarter of workers had access to paid sick leave.

The majority of migrants in manufacturing, 59% earn between 3,000-5,000 baht per month (\$75 to 125). Registered workers tended to earn higher wages..... while their average wages would amount to a monthly wage of 8,025 baht (\$ 200.65) if calculated according to the law.

Employers often justified the low wages by indicating they provide food and accommodation to the worker. However migrants stated they often had salary deducted for the accommodation provided by employers. Many migrants start on a 'trainee' wage of 1,200-3,000 baht per month and it could take up to three years to obtain a 'full pay' salary.

15% of workers had experience deductions for making mistakes. The deductions were often substantial enough to leave the worker with little money at the end of the month.

In manufacturing a large number of employers hired Laotian (34%) and Burman workers (31%). Many employers expressed stereotypical attitudes about migrant workers including that they are easier to control than Thais (58%) and that they work harder (43%).

The textile and garment exports, in 2004, generated \$ 6.4 billion according to the Thai Customs department, representing approximately 4% of GDP.

The situation in Mae Sot: the bottom of the exploitation of cheap migrant labour²⁵

A significantly figure of the garment factory in the border area of Thai and Burma, 65 factories are registers in the Mae Sod, a small town border of Thailand and Burma, while there are only about 40,000 local population, the industries is aiming to exploited massive supply of cheap labour from Burma. According to BLSO, there are over 80,000 Burmese migrant workers working in Mae Sod town, earning only 40– 60% of the minimum wage of the area.

Thai Labour Campaign has a staff working to provide legal support and education on labour right to Burmese migrant workers in Mae Sot for two years now. We have conducted a numbers of study on the situation and provide education on labour rights to Burmese migrant workers in the area.

According to interviews with some workers, employment conditions are bad. The wage rate is supposed to be 143 Baht per day, but in fact the workers are getting between 90 and 100 Baht per day. Their wages are deducted for electricity, 20 Baht per day or 520 Baht per month, and for the cost of living, 30 Baht per day or 780 Baht per month. This wage rate is standard for all employees, regardless of whether or not they live and eat in the factory.

The pattern of deducting electric and water supply costs is only found in the Mae Sot area, but not other areas in Thailand. When we compared data, we found that workers in Mae Sot live in poverty. The biggest obstacle to Thai Labour Campaign’s work is strict factory security. When strangers walk past the gate, the guards close it at once to prevent them from looking into the factory. Because of this, TLC’s staff and Burmese’s activists have followed some workers after work, but the workers, both Burmese and Thai, don’t trust our activists. Their fear made it difficult to gain the trust of the community and collect data. Thus, TLC has connected with other organizations to help us in respect of law.

Another obstacle is from the state sector is the nationalist view of civil servants in the Mae Sot area. They often mentioned the long history of land disputes between Thailand and Burma in order to legitimize taking advantage of Burmese workers rather than taking a humanitarian view of the situation. For example, Thai civil servants do not pay attention to calls for employers to follow labour laws. They neglect the problem of the cruel employment conditions. This phenomenon is called “joint oppression, joint corruption,” The joint search for benefits among Thai civil servants and employers.

The trend is severe. There were phone calls threatening Thai Labour Campaign officers. The Intelligence Agency of the government sometimes came to TLC’s Mae Sot office to prohibit us from getting involved with Burmese workers, especially supporting their efforts to claim their own rights.

Thai Labour Campaign has documented the cases that many companies dismissed employees without notice. The rights of workers are often violated. For example, the real wage rate is 130 Baht per day, but employers pay them only 60-70 Baht per day. By law, when there are no orders, companies are required to pay workers wages at 50% of the normal wage rate for cost of living expenses, but the companies ignore this responsibility. Employers try to lay off workers. Discontented workers have tried to form unions to call for the rights they are given by law.

3.4. Level of Unionisation in the country and in the garment sector

Trade union membership²⁶

	year	Union membership (thousands)
Thailand	1995	416

Trade union density (%)

Year	Union membership as a percentage of:		
	Non-agricultural labour force	Wage and salary earners	Formal sector Wage earners

²⁵ Thai Labour Campaign

²⁶ World Labour Report 1997-98 - Industrial relations, democracy and social stability, Statistical annex

Thailand 1995	3.1	4.2	5.2
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Collective bargaining structure in selected countries

	Bargaining levels over past 10 years	Dominant levels over past 10 years	Trend over past 10 years
Thailand ¹	C	C	. i

N/S = National/ sectoral level. C = Company/plant level. d = Decrease. i = Increase. s = Stable.

There are only a few large- and medium-scale manufacturing facilities in Thailand where workers can still practice the right to unionise. There are only 32 unions with a total of just 25,000 members from over 5,000 factories in the textile, garment and leather industries, which employ over one million workers in Thailand. Shockingly, unionised garment workers make up only 2.5% of the sector's workforce.

The number of unionised workers in Textile Garment Leather Workers Federation of Thailand has declined over 30% since the 1997 economic crisis. However, the industry continues to make as much profit as it made many years ago.

Employers - Employees Association (1)

Form of Association	No of Association At last date of report			New registers			cancellation no. of association		
	Bangkok	provincial	total	Bangkok	provincial	total	Bangkok	provincial	total
Employees Association									
Trade Union	390	976	1,366	1	5	6	3	9	12
State Enterprises Trade Union	41	4	45	-	-	-	-	-	-
Federation	10	8	18	-	-	-	-	-	-
Congress	9	1	10	1	-	-	-	-	-
Employers Association									
Association	218	202	420	-	3	-	2	-	2
Federation	2	1	3	-	-	-	-	-	-
Congress	12	-	12	-	-	-	-	-	-

Employers - Employees Association (2)

Form of Association	Existing association			number of members			form of registration	number of trade union		
	end of the year			end of the year				end of the year term		
	Bangkok	provincial	total	Bangkok	provincial	total		Bangkok	provincial	total
Employees Association										
Trade Union	388	972	1,360	107,581	232,256	339,837	same employers	128	327	455
State Enterprises Trade	41	4	45	149,295	19,205	168,500	same industries	260	645	905

Union										
Federation	10	8	18				total	388	972	1,360
Congress	10	1	11				management union	20	37	57
Employers Association							production union	368	935	1,303
Association	216	205	421				total	388	972	1,360
Federation	2	1	3							
Congress	12	-	12							

3.5. Important trade unions and their federations

There are nine trade union congresses, among which the Thai Trade Union Congress (TTUC) and the Labour Congress of Thailand (LCT) were affiliated with the ICFTU; and , the National Congress of Thai Labour (NCTL), with WCL. (In November 2006 ICFTU and WCL have merged into the ITUC). The ILO's contacts are these three congresses and the State Enterprise Relations Congress (ILO country update: Thailand, June 2003).

3.6. Procedures for handling complaints and grievances

The National Human Rights Commission of Thailand (NHRC) was established under Section 199 and 200 of the 1997 Constitution as a mechanism to guarantee the respect for human rights as stipulated therein. The 11 full-time commissioners are supposed to have extensive human rights experience, gender balance and pluralistic background. (see Chapter 5: inventory of Stakeholders)²⁷.

NATIONAL HUMAN RIGHTS COMMISSION ACT B.E. 2542 (1999)

Section 15 The Commission has the powers and duties as follows:

- (1) to promote the respect for and the practice in compliance with human rights principles at domestic and international levels;
- (2) to examine and report the commission or omission of acts which violate human rights or which do not comply with obligations under international treaties relating to human rights to which Thailand is a party, and propose appropriate remedial measures to the person or agency committing or omitting such acts for taking action. In the case where it appears that no action has been taken as proposed, the Commission shall report to the National Assembly for further proceeding;
- (3) to propose to the National Assembly and the Council of Ministers policies and recommendations with regard to the revision of laws, rules or regulations for the purpose of promoting and protecting human rights;
- (4) to promote education, researches and the dissemination of knowledge on human rights;
- (5) to promote co operation and co ordination among Government agencies, private organisations, and other organisations in the field of human rights;
- (6) to prepare an annual report for the appraisal of situation in the sphere of human rights in the country and submit it to the National Assembly and the Council of Ministers and disclose to the public;
- (7) to assess and prepare an annual report of the performance of the Commission and submit it to the National Assembly;

²⁷ <http://www.nhrc.or.th/index.php>

(8) to propose opinions to the Council of Ministers and the National Assembly in the case where Thailand is to be a party to a treaty concerning the promotion and protection of human rights;

(9) to appoint a sub committee to perform the tasks as entrusted by the Commission;

(10) to perform other acts under the provisions of this Act or as the law prescribed to be the powers and duties of the Commission.

Section 27. In conducting the examination of human rights violation, the Commission shall, if it deems mediation is possible, mediate between persons or agencies involved to reach an agreement for compromise and solution of the problem of human rights violation. If the parties agree to compromise and solve the problem and the Commission considers the agreement is within the scope of human rights protection, the Commission shall prepare a written agreement for the parties and settle the matter.

If it appears to the Commission thereafter that there is non compliance with the written agreement under paragraph one. the Commission shall further proceed with the examination under its powers and duties.

Section 31. In the case where no proceeding or order for the implementation of remedial measures for solving the human rights violation under section 30 has been taken, the Commission shall report to the National Assembly for further proceeding. In reporting to the National Assembly, if the Commission deems it beneficial to the public, the Commission may disseminate to the public the case in which no implementation of remedial measures solving the human rights violation has been taken.

The NHRC has been an independent institution that garments workers seek support. There are many cases of violation in the garment industry where workers have appealed to the NHRC for help, for example, the Gina and MSP unions²⁸.

Cases brought before the National Human Rights Commission suggest that employers actively work to prevent the formation of unions and do all that they can to exclude union organisers from their factories (NHRC, 2004)²⁹.

One of the most frequent criticisms of the NHRC heard in labour and NGO circles in Thailand is the commission only has the power to recommend, and that its findings can be ignored with impunity by civil servants, ministers and other policy-makers. One could argue that in a country like Thailand where many employers are particularly sensitive to public loss of face that an appearance before the NHRC entails, shaming is a good start³⁰.

3.7. Employers organisations

There are ten registered employers' confederations. The ILO's contacts are the Employers' Confederation of Thailand (ECOT) which is a member of the IOE and the Confederation of Thai Trade and Industry (ECONTHAI). ECOT has been very active in addressing development issues such as HIV/AIDS, corporate responsibility, and gender equality. Many small employers, SME owners and up-country employers are not member of either ECOT or ECONTHAI (ILO country update: Thailand, June 2003).

The employers associations in the textile and garment industry date back to around 1960 – 1970. They were established before the trade unions and always had a major role in working

²⁸ The struggle of Gina workers in Thailand; inside a successful international labour solidarity campaign- Philip Robertson and Somsak Plaiyoowong, and working paper series No 75, November 2004, southeast Asia research centre.

²⁹ Hong Kong investors and their labour practices in Thailand; Kevin Hewison, Stephen Frost, Catherine Chiu and Mary Ho, July 2006

³⁰ The struggle of Gina workers in Thailand; inside a successful international labour solidarity campaign- Philip Robertson and Somsak Plaiyoowong -working paper series No 75, November 2004, Southeast Asia Research Centre.

and negotiating with the government on trade measures, investment promotion and government support for the industry. Currently, there are 9 associations covering textile, fibre, garment and merchants. The Garment Manufacturers Association has 480 member companies who are the leading exporters of garments.



The industries' employers associations are:

1. Thai Garment Manufacturers Association (TGMA)
2. Thai Synthetic Fiber Manufacturers' Association (TSMA)
3. Thai Textile Manufacturing Association (TTMA)
4. Thai Weaving Industry Association (TWIA)
5. Association of Thai Textile Bleaching, Dyeing, Printing and Finishing Industries (ATDP)
6. Thai Silk Association (TSA)
7. Union Textile Merchants Association (UTMA)
8. Bobae Garment Association (BOBAE)
9. Thai Fashion Brandname Association (TFBA)

In the textile and garment sector these associations had an important role in quota allocation, and influence in putting pressure on the government to promote and support the industry.

4. The labour standards

Section 108 of the labour protection act 1998: A boss who has a total of ten or more employees shall arrange for work rules and regulations in the Thai language and those rules and regulations must at least have details relating to the following items:

- (1) Days of work, normal hours of work and rest hours.
- (2) Holidays and criteria for holidays.
- (3) Criteria for overtime work and holiday work.
- (4) Days and places of payment of wages, overtime pay, holiday pay and holiday overtime pay.
- (5) Leave days and criteria for taking leave.
- (6) Discipline and disciplinary punishment.
- (7) Complaints.
- (8) Termination of employment, compensation payments and special compensation payments.

A boss shall announce the application of the work rules and regulations within fifteen days from the day on which the boss has a total of ten or more employees, and the boss shall keep a copy of those rules and regulations at the boss' place of business operations or office at all times, and a copy of the rules and regulations shall be sent to the Director-General or a person assigned by the Director-General within seven days from the day of notification of application of the said rules and regulations.

The Director-General or a person assigned by the Director-General shall have the authority to order a boss to correctly amend work rules and regulations that are contrary to the law within a prescribed period,

A boss shall disseminate and post the notification of the work rules and regulations in a place open to the employees at their places of work, for the information of the employees and so that they can see them conveniently³¹.

Section 109. Complaints under Section 108 (7) must contain at least the following details:

- (1) The scope and meaning of complaints.
- (2) The procedures and steps for complaints.
- (3) Inquiries and consideration of complaints.
- (4) Process for ending complaints.
- (5) Protection of complainants and persons concerned.

Section 110. When work rules and regulations are amended, the boss shall announce the amended rules and regulations within seven days from the date of notification of application of the amended rules and regulations, and paragraphs two, three and four shall be applied, *mutatis mutandis*.

Section 111. After a boss has announced the application of work rules and regulations in accordance with Section 108, even if later on the boss has less than ten employees, the boss shall continue to have the duty to comply with Sections 108 and 110.

Section 112. A boss who has ten or more employees shall prepare an employee register in the Thai language and keep it at the boss' place of business operations or office, ready for inspection by the Labour Inspection Officer during hours of work.

The boss shall prepare the employee register under paragraph one within fifteen days from the date on which the employee starts work.

Section 113. An employee register must have at least the following particulars:

- (1) Name and surname.
- (2) Sex.
- (3) Nationality.
- (4) Date of birth or age.
- (5) Current address.

³¹ Labour protection act 1998, <http://laborsta.ilo.org>

(6) Date of commencement of employment.

(7) Position or job duties.

(8) Wage rate and other fringe benefits which the boss has agreed to give to the employee.

(9) Date of expiry of employment.

When it is necessary to change the particulars in the employee register, the boss shall complete the amendment of the employee register within fifteen days from the date on which that change took place or within fifteen days from the date on which the employee reported the change to the boss for information.

Section 114. A boss who has a total of ten or more employees shall ensure that there is documentation on the payment of wages, overtime pay, holiday pay and holiday overtime pay, including at least the following particulars:

(1) The working days and hours of work.

(2) The work results of the employees who receive wages for piece work.

(3) The rates and the amounts of the wages, overtime pay, holiday pay and holiday overtime pay received by each employee.

When wages, overtime pay, holiday pay and holiday overtime pay are paid to an employee, the boss shall arrange for the employee to sign the documentation under paragraph one as evidence thereof.

The particulars in the documentation under paragraph one may be in the same document or separated into several documents.

When a boss pays wages, overtime pay, holiday pay and holiday overtime pay to an employee by means of transferring the money into a deposit account in a commercial bank or some other financial institution, it shall be held that the documentary evidence of the transfer of the money into the employee's deposit account is documentation connected with the payment of the said money.

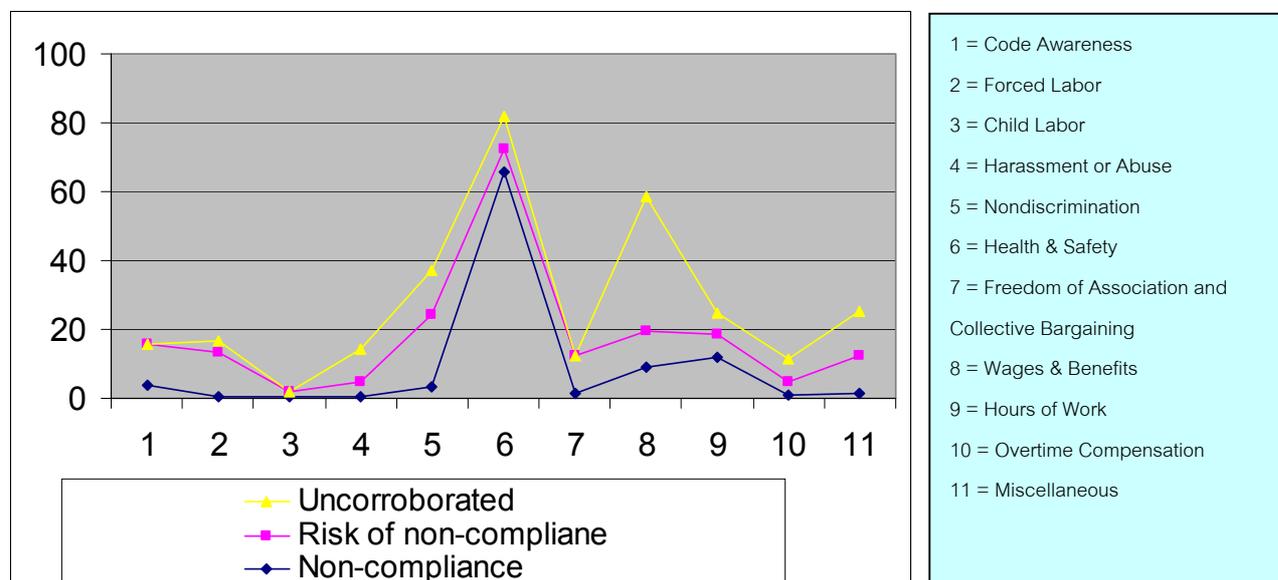
Section 115. A boss shall keep employee registers for not less than two years from the date of expiry of employment of each employee and the boss shall keep the documentation on the payment of wages, overtime pay, holiday pay and holiday overtime pay to an employee for not less than two years from the date of payment of the said money.

When a petition has been submitted under Chapter 12 of this Act or there is a labour dispute under the law on labour relations or a labour case has been filed in court, the boss shall keep the employee registers and the documentation on the payment of wages, overtime pay, holiday pay and holiday overtime pay until there is a final order or judgement regarding the said matter.

Comparing number of non-conformity in each FLA Code³²

No.	FLA Code	Non-compliance (percentage)	Risk of non-compliance (percentage)	Evidence of Non-compliance (un- corroborated) (percentage)
1	Code Awareness	3.93	11.84	0
2	Forced Labor	0.32	13.15	3.22
3	Child Labor	0.65	1.31	0
4	Harassment or Abuse	0.65	3.94	9.67
5	Nondiscrimination	3.27	21.05	12.9
6	Health & Safety	65.9	6.57	9.67
7	Freedom of Association and Collective Bargaining	1.63	10.52	0
8	Wages & Benefits	9.18	10.52	38.7
9	Hours of Work	11.8	6.57	6.45
10	Overtime Compensation	0.98	3.94	6.45
11	Miscellaneous	1.63	10.52	12.9
	Total	100	100	100

Comparing scale of non-conformity in each FLA Code³³



The Board on Investment about legal implications of labour management³⁴

-Thai employers have the right to transfer employees to other work locations, provided the

³² Analyst report of Labor standards audit in Thailand for the year of 2004 – 2006; based on Fair Labor Association (FLA) program, by Labor Standards Unit / Kenan Institute Asia

³³ Ibid

³⁴ http://www.boi.go.th/english/why/human_resources.asp

transfer is not ordered with the exclusive intent to create hardship on them. Refusal to transfer is legal cause for dismissal.

- An employer with 10 or more regular employees is required to establish written rules and regulations in Thai language governing work performance. An employer with 10 or more regular employees is also required to maintain an employee register in Thai language with documents pertaining to the payment of wages, overtime, holiday work etc.

4.1. Employment is freely chosen

The FWF Labour Standard

"There shall be no use of forced, including bonded or prison, labour" (ILO Conventions 29 and 105)

4.1.1 Laws and Regulations

Section 10 of the labour protection act: a boss is not allowed to demand or accept work guarantee money or money guaranteeing against damages caused at work from an employee...

4.1.2 Compliance situation

Problems discovered by Kenan Institute during FLA audits included: excessive overtime required during peak seasons, restricted access to factory facilities (restroom, drinking water), and employee tardiness resulting in the employee being locked out of the work station for the day. Despite these findings, the factories audited had the least number of compliance issues relative to the other labour standards³⁵.

4.1.3 Guidance for auditors

Check documents³⁶:

- Employment contract
- List of / agreements with reliable recruitment agents;
- Policies on Freedom of Movement in & out the factory
- Overtime work form (record of voluntary work)
- Payroll records – are workers paid on a timely basis? Any exceptional deductions from the salary?
- Personnel files – are any original ID documents kept by the factory?
- Personnel forms (ie. annual leave applications)
- Contract and job description for security guards;
- Termination/Resignation documentation.
- Workers all signed contracts? On file? Also the Probation & Temp workers?
- Hiring & firing procedures comply with code/ law ?
- Documented?
- Personnel files adequate & complete ?

Other elements to check :

Hiring:

- Does recruitment involve heavy fees, debts or commissions?
- Workers voluntarily apply to work? Documented?

Salary:

- Salary paid to worker, not to agent or 3rd party?
- Workers are not in debt to the factory, agents, recruiters?

Resignation:

³⁵ Analyst report of Labor standards audit in Thailand for the year of 2004 – 2006; based on Fair Labor Association (FLA) program, by Labor Standards Unit / Kenan Institute Asia

³⁶ See list of Required Documents under the FWF monitoring Program, "For Thailand only", KIASIA-Kenan Institute Asia, "Partnering for Sustainable Development" in the Annex.

- Workers are not penalized or punished for terminating employment ?
- No withholding of wages or paying back wages?

Freedom of Movement:

- Gates not locked? Workers can leave w/o undue restriction?
- Can workers leave for family or medical emergencies?
- Are exit procedures unreasonably long, burdensome or difficult ?Workers can access drinking water and toilet facilities without restriction?

Security:

- What are contractual jobs, duties, responsibilities of Security guards?
- Security guards are aware and informed about Code & FoM ?

4.2. Discrimination in employment

The FWF Labour Standard:

"In recruitment, wage policy, admittance to training programs, employee promotion policy, policies of employment termination, retirement, and any other aspect of the employment relationship shall be based on the principle of equal opportunities, regardless of race, colour, sex, religion, political affiliation, union membership, nationality, social origin, deficiencies, or handicaps" (ILO Conventions 100 and 111)

4.2.1 Laws and Regulations

Section 15 of the labour protection act 1998: A boss shall treat male and female employees equally with regard to employment for work, unless such treatment is not possible due to the characteristics or nature of the work.

The legislative instrument promoting the employment of people with disabilities is the Rehabilitation of Disabled Persons Act. It established the Office of the Committee for the Rehabilitation of Disabled Persons as well as a Fund. Through its allied Ministerial Regulations an employment quota system has been established. A quota system is in place to promote employment opportunities for people with disabilities. The quota system applies to companies with more than 200 employees while 97% of Thailand's enterprises employ less than 50 workers (ILO & DCI, 2003).

4.2.2 Compliance situation

This principle was ranked 4th of non-conformity by Kenan Institute during FLA audits. The audit showed that the majority of the breaches of the FLA non-discriminatory benchmark were found on the application form, which contained questions about race, religious, nationality and gender and military status questions. These questions seemed to impact the management hiring decisions. For example, the question of military status of male candidates was taken into account by management during the hiring process. Additionally, some factories stated the applicant age range in the vacancy advertisement (for example: the maximum age of applicant should not exceed than 35 years of age), and the mandatory retirement age was different from men and women. Gender issues were prominent. The majority of employees in these factories were female, and although, there did not seem to be a wide range of discrimination issues, females suffer several workplace abuses, mainly revolving around pregnancy issues. Factory management did not believe in hiring pregnant workers and often requires a certificate to demonstrate compliance. In other instances, supervisors clearly pressed their workers not to get pregnant after hiring. Kenan Institute also noticed that some factories did not have any policies to address discrimination³⁷.

4.2.3 Guidance for auditors

³⁷ Analyst report of Labor standards audit in Thailand for the year of 2004 – 2006; based on Fair Labor Association (FLA) program, by Labor Standards Unit / Kenan Institute Asia

Hiring, promotion & termination:

- Does the factory have a policy on non-discrimination? Provide training?
- Are decisions to hire, fire or promote based on skills & ability?
- Does the factory practice discrimination based on age, gender, race, religion or other characteristics?
- Are individuals given preferential job assignments for reasons other than ability?
- Is there a pattern of systematic discrimination?
- Pregnancy:
- Does the factory refuse to hire or otherwise discriminate against married or pregnant women?
- Does the factory test for pregnancy?
- Are women and/or pregnant women engaged in work hazardous to their health/ reproductive health?

Documentation and management systems:

- Non-discriminatory employment advertisements and notices – which conform with factory policy; Check texts of job advertisement to see discrimination in hiring (only young girls for example)
- Employment applications and forms – which do not make unlawful requests for information
- Interview & skill test forms – which should be kept on record even if a candidate is rejected
- Employment contracts – recruits should review & sign contracts before starting work
- Performance evaluations – signed by employee
- Termination notices
- Disciplinary procedure
- Factory rules

4.3. No Exploitation of Child Labour

The FWF Labour Standard:

"There shall be no use of child labour. The age for admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years." (ILO Convention 138) "There shall be no forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour. [...] Children [under the age of 18] shall not perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals." (ILO Convention 182)

4.3.1 Laws and regulations

Section 44 of the labour protection act 1998: A boss shall be prohibited from employing a child under the age of fifteen years as an employee.

Section 45. When a child under the age of eighteen years is employed as an employee, the boss shall act as follows:

- (1) Report the employment of that child employee to the Labour Inspection Officer within fifteen days from the date on which the child starts work.
- (2) Prepare a record of conditions of employment, when they are changed from the original conditions, for storage at the boss' place of business operations or office, ready for inspection by the Labour Inspection Officer during hours of work.
- (3) Report the termination of the employment of the child to the Labour Inspection Officer within seven days from the date on which the child left the job.

Section 46. A boss shall arrange for a child employee to have a rest period of not less than one consecutive hour per day after the employee has been working for not more than four hours.

However, during those four hours, the child employee shall have a rest period as prescribed

by the boss.

Section 47. A boss shall be prohibited from permitting a child employee under the age of eighteen years to work between the hours of 22.00 hrs and 16.00 hrs unless written permission has been obtained from the Director-General or a person assigned by the Director-General.

Section 48. A boss shall be prohibited from permitting a child employee under the age of eighteen years to work overtime or work on holidays.

Section 49. A boss shall be prohibited from permitting a child employee under the age of eighteen years to perform any of the following work:

(3) Work connected with heat, cold, vibration, noise and light the levels of which are different from normal levels, which could be hazardous as prescribed in ministerial regulations.

(4) Work connected with hazardous chemicals as prescribed in ministerial regulations.

(6) Work connected with poisonous materials, explosives or inflammable materials, except for work in fuel oil service stations as prescribed in ministerial regulations.

(7) The driving or controlling of forklifts or cranes as prescribed in ministerial regulations.

(8) Work which uses electric or motorized saws.

(11) The cleaning of machinery or engines whilst the machinery or engines are in operation.

Section 51. A boss shall be prohibited from paying the wages of a child employee to another person.

A boss shall be prohibited from demanding or accepting guarantee money for any purpose whatsoever on the part of a child employee.

In the case where a boss, a child employee, a parent or guardian of a child employee pays or accepts money or any remuneration benefit in advance before employment takes place, at the beginning of employment or before the stage of payment of the wages to the child employee on each occasion, it shall not be held to be payment or receipt of wages for that child employee, and the boss shall be prohibited from deducting the said remuneration benefit from the wages which must be paid to the child employee in accordance with the deadline.

Section 52. In the interests of developing and promoting the quality of life and the performance of work by children, a child employee under the age of eighteen years has the right to participate in meetings and seminars, receive training or take leave for other activities which are organized by places of education or state or private sector work units approved by the Director-General, subject to the requirement that the child employee shall inform the boss clearly in advance of the reason for taking the leave, as well as show relevant documentary evidence thereof, if any, and the boss shall pay wages to the child employee in an amount equal to the wages for working days throughout the entire leave period, but the number of such leave days must not exceed thirty days in a year.

4.3.2 Compliance situation

The factories audited by Kenan Institute Asia on behalf of the FLA had no issues with regards to child labor. They maintained proof of age documentation for all workers appropriately. However, some of the factories did not properly protect juvenile workers. The regulations require employers to ensure that all the juvenile workers are physically separated from hazardous materials, dangerous conditions and are protected from exposure to hazardous substances³⁸.

4.3.3 Guidance for auditors

- No factory wants to hire child labourers, since they know this is unacceptable with their clients, but young workers might borrow ID's from older persons to get a job.
 - You may find young workers in canteens or packaging.
- Hiring:*
- Does factory have a policy on minimum hiring age?

³⁸ Analyst report of Labor standards audit in Thailand for the year of 2004 – 2006; based on Fair Labor Association (FLA) program, by Labor Standards Unit / Kenan Institute Asia

- Effective policies, procedures & documents for checking age ID ? *Procedures and documentation to carefully check ID are critical.*
- Interview process & cross check to uncover false documents?
- Appropriate policies, procedures & documents for Juvenile Workers?

Operations:

- Do juvenile workers perform hazardous jobs ?
- Effective system, communication & training to prevent juvenile violations ?

Wages & Benefits Resignation:

- Do young/ juvenile workers receive adequate pay & benefits ?
- Do they receive adequate protection & benefits required by law ?
- Do they work OT?

Subcontracting:

- Does the factory subcontract with users of Child Labour?
- Are subcontractors informed of code and legal requirements? Receive training? Inspected?
- Canteen subcontractors?

Policies:

- Policy on minimum working age
- Policy for juvenile workers

Procedures:

- Verify age through documents and interview questions, cross check for false documents.
- Prepare plan/procedures for how to handle Child or Juvenile Workers if found.

Documentation:

- Record of checking Original ID, dated, countersigned
- Periodic ID checks, updates and monitoring.

Common issues:

- Juvenile workers hired due to failure to check month and year.
- Juvenile workers hired as seasonal workers or subcontract workers ie. canteen.
- Juvenile/child workers due to home-work.

4.4. Freedom of Association and the Right to Collective Bargaining

The FWF Labour Standard:

"The right of all workers to form and join trade unions and bargain collectively shall be recognised." (ILO Conventions 87 and 98) "Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to carry out their representation functions". (ILO Convention 135 and Recommendation 143)

4.4.1 Laws and Regulations

Thailand has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) or the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

There was little progress on labour reform during 2006, despite earlier government promises, and neither the labour laws nor their implementation approached compliance with ILO Conventions 87 and 98. Civil servants are still denied the right to form unions and conduct collective bargaining. In the private sector, workers were regularly dismissed during the year for forming trade unions, and exploitation of legal migrant workers from Burma, Laos, and Cambodia reached new heights.

Private sector workers have the right to form and join trade unions under the 1975 Labour Relations Act (LRA). Ten workers in the same factory or industry can apply to form a union. Unions must be registered with the Ministry of Labour. The workers may decide on the rules of their unions, although there are standard, somewhat restrictive, provisions which the Min-

istry of Labour says must be in all union charters in order for them to be registered. Employee representation in direct negotiations with employers is possible. The Act prohibits anti-union discrimination by employers, and sets up a tripartite Labour Relations Committee to hear cases. However, the LRC's decisions can and often are appealed to the Labour Courts.

Section 95 of the Labour Relations Act provides that members of a union "shall be workers working for the same employer" of the enterprise or company represented by the union, or "employees engaging in the same category of work." If a worker loses his/her job at that enterprise, they must be dismissed from the membership of the union. And since, by law, leaders of unions can only come from the active membership of the union, this also means they lose their leadership post.

An executive committee member of a union must be at least 20 years old to stand for election. Non-Thai workers can join a union but they cannot hold union office, as office bearers must have Thai nationality. This effectively bars the creation of unions by legally-registered migrant workers who are ostensibly covered by all aspects of Thai labour law.

The Thai government uses a proclamation - NPKC Order 54 - by the last military government to restrict the unions' right to have advisors. Under this order, each union is entitled to no more than two advisors, who must register with the Ministry of Labour and have their registration regularly renewed. The Ministry has broad discretion to deny registration, and penalise labour leaders who fail to register.

There is no specific protection for union founders or committee members. Despite the ban on anti-union discrimination, therefore, workers can be legally fired for any other reason, provided they receive severance pay, even if they are a union leader.

Members of the bilateral Worker-Employer Welfare Committee are protected from dismissal under the 1998 Labour Protection Act, but reinstatement for unfair dismissals in such cases is a very lengthy process³⁹.

Section 96 of the labour protection act 1998: In a place of business operations which has fifty or more employees, the boss shall arrange for a welfare committee in the place of business operations made up of at least five representatives from the employees side.

The members of a welfare committee in a place of business operations shall be elected in accordance with the criteria and procedures prescribed by the Director-General.

When a place of business operations of a boss has an employees' committee under the law on labour relations, the employees' committee shall perform the duties of the welfare committee in the place of business operations under this Act.

Section 97. A welfare committee in a place of business operations has the following authority and duties:

(1) To participate in discussions with the boss in order to arrange for welfare benefits for the employees.

(2) To give advice and recommend opinions to the boss in the matter of welfare arrangements for the employees.

(3) To inspect, supervise and look after welfare arrangements provided by the boss for the employees.

(4) 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.

Section 98. A boss must arrange for a discussion meeting with the welfare committee in the place of business operations at least once in three months, or at any time when for an appropriate reason the labour union or the majority of members of the welfare committee in the place of business operations requests that a discussion meeting be held.

Section 99. A boss shall post a notification on welfare arrangements pursuant to a ministerial regulation issued under Section 95, or under the agreement with the employees, at a place open to the employees for the information of the employees at their places of work.

³⁹ Thailand: Annual Survey of Violations of Trade Union Rights (2006)
<http://www.icftu.org/displaydocument.asp?Index=991223932&Language=EN>

The LRA requires that all members of a union executive must be full-time workers in the enterprise. They must therefore negotiate leave of absence for trade union work with the employer.

Collective bargaining

Employees numbering at least 15 per cent of the workforce, or a trade union with a membership representing at least 20 per cent of the workforce, may present collective bargaining demands on working conditions. However, the union must take a vote in its annual meeting in order to put forward those demands, failing which the union has no right to engage in collective bargaining. Copies of collective bargaining demands must also be sent to the Ministry of Labour.

Revision of the LRA

Cabinet reshuffles resulting in a change in the Minister of Labour, and the general lack of priority given to labour issues by the government, meant little progress was achieved in reform in 2005. The labour movement has been seeking a revision of the LRA for the past seven years, to bring it into line with international labour standards. However, the latest bill issued by the Council of State in July 2004 fell far short of those aspirations. Trade unions continued to protest strongly against the Council of State draft, stating that it contained major flaws.

State enterprises

Employees of state enterprises have the right to form trade unions and bargain collectively under State Enterprise Labour Relations Act (SELRA), amended in 2000.

At least ten employees, representing at least ten per cent of the workforce - excluding administrative staff, casual, seasonal and contract workers - may apply to establish a trade union. An application must be filed with the registrar, along with documentation listing the names and signatures of those who intend to become members of the union. Once registered, the trade union obtains legal status. Each state enterprise can have only one union, and each state enterprise employee may be a member of only one union. However, if a union's membership dips below 25 per cent of the eligible workforce, then it is liable to be dissolved administratively by the state under the terms of SELRA.

Under the SELRA, the objective of a state enterprise union must be to promote good relations among employees, and between employees and employers; to protect workplace conditions; and to cooperate with authorities in seeking to ensure the effectiveness of the state enterprise and protect its interests.

Affiliation between state enterprise unions and private sector labour congresses or federations is restricted by the SELRA. State enterprise unions can only affiliate to a national labour congress as a confederation. Thus, the State Enterprise Workers' Relations Committee (SERC), the national confederation of state enterprises that groups the 43 state enterprise unions, can affiliate as an entity with one national labour congress, but individual state enterprise unions cannot.

Restrictions on the right to strike

The SELRA prohibits strikes and lock-outs within state enterprises. Civil servants have no right to strike, and face disciplinary proceedings and dismissal under laws and regulations governing the civil service.

Private sector workers have the right to strike but the government may restrict strikes that would "affect national security or cause severe negative repercussions for the population at large."

The Labour Relations Act forbids strikes in "essential services," which it defines in broader terms than those set out by the ILO. During the year, a major dispute occurred over pay increases and benefits between the Esso Union, supported by the Petroleum and Chemical Workers' Federation of Thailand (PCFT), and Esso management in Sri-racha, Chonburi province. However, the dispute had to be settled by mediation and arbitration because Thai law classifies petroleum as an "essential service."⁴⁰

⁴⁰ Thailand: Annual Survey of Violations of Trade Union Rights (2006)
<http://www.icftu.org/displaydocument.asp?Index=991223932&Language=EN>

Amendment of the Labour Relations Act: Agreement on Terms and Conditions of Employment ⁴¹

An organization having 20 or more employees shall arrange an agreement on terms and conditions of the employment. In case of doubt, it shall be held that the working regulation is the agreement on terms and conditions of the employment.

The agreement on terms and conditions of employment shall contain at least agreement on terms and condition of employment; working days and working hours; wages; welfare; complaints; termination of employment; and amendments and renewal of the employment

The agreement on terms and condition of employment shall be applicable

- (1) Not longer than three years.
- (2) If the period is not specified, it shall be implied that the agreement on terms and conditions of employment shall be effective for another year from the date of agreement.
- (3) In case that the period is specified in the agreement and the agreement of the employment expires without further negotiation. Such agreement shall continue for one more year.

In case of redetermining or amending of the agreement on terms and conditions of the employment, either the employer or the employees shall advise another party in writing.

In case the employee (exclude the labour union) submits, on employees' behalf, notice of the demands, at least 15% of participants' name and signatures should be included.

The employers' association or labour union may submit such demands to the other party on behalf of the employee. In case of doubt, a request shall be submitted to the labour dispute conciliator to examine and issue a letter of certification. In case of the labour union, the number of members must not be less than 1/5 of the total number of the employees.

The employer must openly display the notification of the agreement at the workplace for at least 30 days.

In case a labour dispute has occurred:

- (1) The party tendering the demands shall notify the labour dispute conciliator within 24 hours.
- (2) After the conciliation officer received the notification, he shall proceed to reconcile both parties so that an agreement may be reached within 5 days from the date of receiving the notification.
- (3) In the case where an agreement can not be reached , such labour dispute shall be declared as the could not be settled
 - (a) both parties may agree to appoint labour dispute conciliators
 - (b) the employer may effect a lock-out
 - (c) the employees may go out on strike
 - (d) in case the irreconcilable labour dispute occur in the following business activities which are railway ; port; telephone and telecommunications production or distribution of energy or electricity; waterworks; producing or refining fuel oil; operation of hospitals or clinic; the labour dispute conciliator shall refer the labour dispute to the Labour Relations Committee for consideration and the decision shall be notified to both parties within 30 days. However, both parties have the right to appeal to the Minister of Ministry of Labour and Social Welfare within 7 days and the Minister shall consider appeal and notify both parties the decision within 10 days.
 - (e) When there is an irreconcilable labour dispute in any undertaking other than those stated above.
 - (f) The Minister of Ministry of Labour and Social Welfare think that such irreconcilable labour dispute may affect the national economy or public order, the

⁴¹ Summary of Labor Relations Act B.E. 2518 And the Notification of National Security Council Volume 54

Minister shall have the authority to order the Labour Relations Committee to decide such labour dispute.

Results of the Demands

If the demand is in the process of consideration, negotiation, settlement, employer shall not terminate employment or transfer from duty of the employee who are involved with the said presentation of demands, except where such persons:

- (1) perform their duties dishonestly
- (2) intentionally commit a criminal offence against the employer;
- (3) intentionally cause damage to the employer;
- (4) violate the rules, regulations or lawful orders that the employer gives after caution except in a severe case;
- (5) neglect their duties for 3 consecutive days without valid reasons.

Other persons shall not be involved

Other persons (who are not employer, employee, committee member of the employers' association, committee member of the labor union, committee member of the employer's federation, committee member of labor relation, representative or adviser) shall not involve the presentation of demands, negotiation, reconciliation, the arbitratve decision on labor dispute, lock-out or strike

No lock-out, no strike is allowed

Employer shall not lock-out nor employees strike under the following cases:

- (1) when the demands have not yet been submitted to the other party
- (2) when the labor dispute has yet to become an irreconcilable labor dispute
- (3) when the party have to comply with the agreement
- (4) when the matter is pending on the decision
- (5) without a submitted notice to the labor dispute conciliator and to the other party at least 24 hours in advance.
- (6) in the case of a declaration of marital law under the law on marital law or proclamation of the Minister shall have the power to issue a Notification prohibiting a lock-out by employer or employees from striking

Lock-out or strike may cause damages

In case the lock-out or strike may affect the national economy or public or endanger the national security or against public order, the Minister shall have the following authority:

- (1) Order the employer who lock-outs to re-engage their employees and pay wages at the rate previously received.
- (2) Order the employee on strike to return to work
- (3) Arrange for persons to replace the employees who are not working due to a lock-out or strike;
- (4) Order the Labor Relations Committee to decide on such labor dispute.

Labor Relations Committee

The labor relations committee shall have the following duties:

- (1) Consider the labor dispute
- (2) Decide on the labor dispute
- (3) Consider and decide on an unfair event, and is empowered to order employer to re-engage their employee or pay compensation or compel the employer to perform or not perform any act as deemed appropriate
- (4) submit opinion concerning the demands, the negotiations, the settlement of labor disputes, the strike and lock-outs as given by the Minister of Ministry of Labor and Social Welfare

4.4.3 Compliance situation

Only a very small proportion of the total workforce is unionised - 3.5 per cent according to 2002 figures, which is among the lowest levels in Asia. Furthermore, only a small minority of employed workers - an estimated five per cent - are covered by collective bargaining agreements.

Exploiting legal loopholes

There are many loopholes in the law which mean that those workers who do practise the right to join a union and to collective bargaining are very often the victims of anti-union harassment.

Employers frequently dismiss workers trying to form trade unions. In some cases, they are fired while awaiting registration of the union (and therefore not yet covered by the laws protecting them from anti-union discrimination). In other situations, they are dismissed for ostensibly non-union reasons invented by the employer. Penalties for wrongful dismissal are too low to be dissuasive.

The fact that an employee must negotiate leave for his or her union activities makes retaliation by the employer easy. Factory owners may, for example, tell management not to allow union executive members to work overtime. This results in a significant economic disadvantage for union leaders and creates disincentives for workers to take leadership roles in the union.

Companies also take advantage of legal loopholes to set up several small unions in order to undermine the voting rights of bona fide unions in elections to tripartite labour committees. Labour unions, regardless of their size, have one vote each.

Privatisation process impacts on freedom of association

The Thai government is using the legal division between the private and the public sectors (the private sector being covered by the 1975 LRA, the public sector by the 2000 SELRA) to restrict freedom of association in the context of an ongoing privatisation process. When a state-owned company passes to the private sector, the Ministry of Labour cancels its trade union's registration, on the grounds of the difference in legal status and differences between the laws. Yet it is at the very moment when a private owner takes over management that the workers most need their union to negotiate on their behalf and protect them.

This was the case, for example, at Bangchak Petroleum Public Co. Ltd. Employees' Union (BCPEU) in 2002. The Thai government ignored an ILO recommendation that the legal personality of the BCPEU be restored immediately. A new union was created with different members in 2003. The government continued to ignore the recommendations of the ILO CFA to close legal loopholes by creating a mechanism through which state enterprise unions (regulated under the SELRA) would not lose status as a result of the privatisation process.

Abuses of legal provisions to keep trade unionists out of the factory

There are frequent abuses of provisions of Article 75 of the 1998 Labour Protection Act, under which the employer may temporarily halt operations wholly or partially for any cause other than "force majeure", provided that he pays his employees at least 50 per cent of their normal working day's wage during that period. Employers have used this provision to keep trade union members out of the factory with half pay indefinitely, thereby forcing them out of the company.

Labour courts inefficient

The unions also report that tripartite labour courts are very slow in handling disputes, and tend to side with the employer in cases where union leaders have been fired. Courts tend to try and negotiate compromises, which are often not advantageous to workers, to reduce the load on their court docket.

An investigation into the election of Central Labour Court Judges in 2003 found there had been systematic corruption in the election of assistant judges, aimed at weighting the votes in favour of pro-employer judges.

Even where a court has ordered the reinstatement of an illegally fired worker, employers often react by offering substantial severance pay in lieu of reinstatement.

Outsourcing

Another means of circumventing trade union activity is via outsourcing, which has proved increasingly popular among employers, notably in the garment and textile industries. Increasingly, auto parts, plastics, metal, and other traditionally "heavier" industries have been significantly affected. Factories saw a significant increase in sub-contracting arrangements in production, as well as rapid growth in the practice of hiring contracted labourers in factories to work on production lines, doing the same work as permanent staff. Major efforts by the labour movement to close loopholes in the LPA failed to make progress, and a draft law proposed in 2005 by the MOL was roundly condemned by the unions as likely to make the problem even worse⁴².

Migrant workers suffer huge restrictions

Legally-registered migrants theoretically have the same rights as nationals under Thai law. However, they are not permitted to change jobs without their current employer's written permission. If they do, or if they are fired, they can be immediately deported, unless they find another job within seven days. That task is almost impossible given the collusion between employers and the existence or creation of blacklists. Thai employers use these provisions to impede migrant workers' freedom of association. Those who dare to protest are fired by the employer and handed over to the Immigration Department.

Moving industry away from centres of union activity

Board of Investment incentives for foreign investors have encouraged decentralisation of industry into border areas, where union density is low or non-existent, and where factories often use legal migrant workers from Cambodia, Laos, or Burma who are not allowed under law to organise unions.

Harassing and busting unions in the Eastern Seaboard

The rapidly industrialising Eastern Seaboard area of Rayong and Chonburi provinces, sometimes referred to as the "Detroit of the East" because of its heavy concentration of automobile and auto-part factories, saw a significant increase in anti-union harassment. The MOL seemed powerless, or disinclined, to stop this trend. Central elements of the anti-union model being actively promoted by employer associations in the area, aided by two notorious anti-union strategy consulting groups, included discriminatory, systematic monitoring and harassment of union leaders by management; firing of union executive members and filing legal cases against them; and the use of contract workers, including Burmese migrant workers, to undercut union bargaining power. Anti-union activity continues with impunity in the region, where primary policy dictates a focus on encouraging more foreign investment at any cost.

Mikasa doesn't play ball with the workers

Mikasa Sports, the athletic equipment manufacturer, conducted a systematic anti-union campaign at its factory at the Eastern Seaboard industrial estate. Supervisors intensively monitored and penalised union leaders and activities, and union executive committee members were subjected to regular transfers.

Intermax Apparel - firings, punitive moves to keep union weak

In July, the workers at Thai-owned Intermax Apparel put forward collective bargaining demands by collecting signatures, and organised a union to assert their rights. The retaliation by management was swift. The four key leaders of the union were dismissed, while the remaining 20 committee members and core activists received a punitive transfer to another factory in the group, away from the main body of workers. Stripped of their leadership, the intimidation of the rank-and-file workers by management was effective. A sufficient number withdrew their names from the collective bargaining demand to nullify it. The twenty remaining leaders continued to be harassed by supervisors in an effort to force them to resign. By the end of the year, hopes for reinstatement of the four leaders had not been realised.

Firing, blacklisting and threatening migrant workers in Mae Sot

There were literally dozens of cases where migrant workers were intimidated to not assert their collective rights. Blacklists operated, and workers were arrested and abused with impu-

⁴² Thailand: Annual Survey of Violations of Trade Union Rights (2006)
<http://www.icftu.org/displaydocument.asp?Index=991223932&Language=EN>

nity by local authorities, aiding and abetting factory owners, throughout the year. Migrant workers at B.B. Top garment factory protested at treatment that included forced overtime and being paid less than half the legal minimum wage. Management identified and fired the six leaders of the group, and encouraged other factories in Mae Sot to blacklist them, prompting a case for back pay and compensation to be filed by the workers. The matter was still in the courts throughout 2005.

On 18 April, when workers protested at low wages and appalling working conditions, Taiwanese-owned Uni-Ocean garments told 152 workers that they had an hour to leave the factory before police arrived to arrest them. This prompted many to flee the area without collecting their belongings from the factory dormitory. A number of workers later asserted their rights, and filed a complaint with the provincial MOL about Uni-Ocean's sub-minimum wages. This resulted in a major financial decision against the company, which in turn appealed to the Labour Court.

Workers at Mae Sot Garments were fired in September for attending a seminar organised by the Mae Sot legal clinic, supported by the human rights NGO, Forum Asia, and the Law Society of Thailand.

Official harassment of labour rights' defenders in Mae Sot

A Burmese labour organisation in Mae Sot in Thailand's Tak province (on the Thai-Burma border) has suffered continuous harassment by local Thai police officers, according to members of the group, the Yaung Chi Oo Workers' Association (YCOWA). The year started with the YCOWA reeling from a raid in December 2004 on their office by police and immigration authorities. During the raid, files on labour disputes and computers were confiscated. At the same time, an unpaid voluntary Burmese interpreter, A Salam, was arrested. Despite having a "Burmese displaced persons" identification card issued by the Thai government, that allows him to legally reside in Thailand, he was charged with violating the Foreign Workers Act of 1978. It was claimed by officers that interpretation and office work are not categories of employment that migrants are allowed to do. Before the raid, A Salam had been frequently followed by unknown persons, and was attacked on 5 November 2004. Two days after the raid, he received a threatening phone call saying he would be kidnapped and killed unless he ceased helping Burmese workers. The case continued during the year.

Representatives claimed that two Thai police officers pulled their car up to the group's offices on 5 September and assaulted a man standing outside talking on a mobile phone. The unidentified man, who was a friend of a YCOWA staff member, sought refuge in the group's offices. But, the police officers kicked the door in and pulled him back out to the street, continuing the assault before finally leaving in their car. This is apparently not the first time that the labour group has been the target of harassment. In three other incidents during the year, members of Yaung Chi Oo have been attacked by armed thugs. Thai employers are upset with the labour group for interfering with their authority to use abusive labour practices. Representatives allege that the owners have lost money because of the group's intercession on behalf of migrant workers, and so have resorted to paying violent gangs to intimidate and attack the group's members⁴³.

As recent as March 2007, the Committee on Freedom of Association of the Governing Body of the International Labour Office recalled⁴⁴ that the Thai government is responsible for preventing all acts of anti-union discrimination and therefore, requested the government to take steps to ensure that four dismissed union officials of the Thai Industrial Gases Labor Union be reinstated, as well as to ensure that those employees, who had resigned from the union may resume their membership in the union free of the threat of dismissal or any other form of reprisal.

Audits conducted by Kenan Institute on behalf of FLA indicated that there is room for im-

⁴³ Thailand: Annual Survey of Violations of Trade Union Rights (2006)

<http://www.icftu.org/displaydocument.asp?Index=991223932&Language=EN>

⁴⁴ <http://www.ilo.org/public/english/standards/relm/gb/docs/gb298/pdf/gb-7-1.pdf>

provement with regards to official policy making and implementation. The factories audited lacked Freedom of Association and Collective Bargaining policies; affected factories had difficulties clarifying processes used to comply with the FLA requirements and the local labor laws. The factories lacked a good understanding of the role of the employee representatives. At some factories, the workers had the right to elect representatives and conduct activities; however, some factories interfered with the election by selecting the Welfare Committee, which is not in compliance with Thai labour laws. Another issue discovered revolved around the communication channel between the employers and the employees. The employers provided a type of suggestion box; however the monitors found that comments or complaints must be written in a factory-prescribed manner. This appeared to hinder workers comfort level in giving their opinion. To conclude, we found that factory owners in Thailand have a negative attitude toward and are fearful of strong labour unions and have a poor history of creating communication channels and collective bargaining agreements. Daily wages in Southeast Asia cover the costs of basic necessities as per the Labour Protection Act. Unions have little ability to leverage improvements in the workplace. The workers need jobs and are hesitant to press for wage increases for fear of retribution⁴⁵.

4.4.4 Guidance for auditors

Union

- Union membership must be a free choice. There must be documents that are applied.
- Even if the law does not strictly require it. You may refer to, ILO principles of Social Dialogue, best practice and common sense.
- Employer does not interfere with workers FOA ? Trade Union ?
- Employer does not discriminate or retaliate against Union members?

CBA

- Have there been a meeting with the workers to agree on the CBA?
- Is the CBA consistent with the personal contracts.
- Check if the CBA has been properly negotiated (can they show different drafts? Minutes or schedules of meetings?)?
- Employer negotiated CBA in good faith with Union? Does Management honour the agreement?

Communication

- Do communications channels exist for workers to raise issues with top Mgt?
- Systems to respond to anonymous complaints? Non-retaliation policy?
- Working & documented grievance systems?

Committees:

- Are the legally required committees in place?

Documentation & Management system:

- Copies of all written requests and demands received from the union or worker representatives, together with the factory management responses to these requests or demands
- Centrally filed copies of all minutes of meetings showing informal and formal discussions with the union or worker representatives
- CBA in compliance with laws & code standards;

4.5. Payment of a Living Wage

The FWF Labour Standard:

⁴⁵ Analyst report of Labor standards audit in Thailand for the year of 2004 – 2006; based on Fair Labor Association (FLA) program, by Labor Standards Unit / Kenan Institute Asia

"Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income" (ILO Conventions 26 and 131, the Universal Declaration of Human Rights, art 23(3) and art 25(1)). "Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted. Deductions shall never constitute an amount that will lead the employee to receive less than the minimum wage. Employees shall be adequately and clearly informed about the specifications of their wages including wage rates and pay period."

4.5.1 Laws and Regulations

Section 53 of the labour protection act 1998: The boss shall prescribe wages, overtime pay, holiday pay and holiday overtime pay to employees equitably for work which has the same characteristics and quality and when the amount of work is the same, regardless of whether those employees are male or female.

Section 54. A boss shall pay wages, overtime pay, holiday pay, holiday overtime pay and other monetary benefits arising from employment in Thai currency, unless consent has been obtained from the employee for payment to be made in the form of a financial bill or in foreign currency.

Section 55. A boss shall pay wages, overtime pay, holiday pay, holiday overtime pay and other monetary benefits arising from employment to an employee at the employee's place of work. If payment is to be made at another place or by another method, consent must be obtained from the employee.

Section 56. A boss shall pay a wage to an employee equal to the wage on a working day in respect of the following holidays:

- (1) A weekly holiday, except for employees who receive a daily wage, an hourly wage or a wage paid for piece work.
- (2) A traditional holiday.
- (3) An annual leave holiday.

Section 57. A boss shall pay a wage to an employee on a medical leave day under Section 32 equal to the rate of the wage on a working day throughout the entire leave period, but the number of such leave days must not exceed thirty working days in a year.

Section 59. A boss shall pay a wage to a female employee on maternity leave equal to the wage on a working day throughout the entire leave period, but the number of such leave days must not exceed forty five days.

Section 60. In the interests of payment of wages under Sections 56 to 59 and Sections 71 and 72, when an employee receives a wage on the basis of piece work, on the date of payment of such a wage the boss shall pay holiday or leave pay in an amount equal to the average working day's pay that had been received by that employee prior to the holiday or leave day.

Section 61. When a boss requires that an employee work overtime on a working day, the boss shall pay overtime pay to the employee at a rate that is not less than one and a half times the normal hourly for the hours of overtime worked, or not less than one and a half times the piece rate on a working day, according to the amount of work produced by an employee who is paid a wage on the basis of piece work.

Section 62. When a boss lets an employee work on a holiday in accordance with Sections 28, 29 or 30, the boss shall pay holiday pay to the employee at the following rates:

- (1) For an employee who is entitled to receive holiday pay, an additional payment of not less than one time the hourly wage rate on a working day shall be paid in accordance with the number of hours worked or not less than one time the piece work rate paid for past work for employees paid on the basis of piece work.
- (2) For an employee who is not entitled to receive holiday pay, a payment of not less than two times the hourly wage rate on a working day shall be paid in accordance with the number of hours worked, or not less than two times the piece work rate paid for past work for employees paid on the basis of piece work.

Section 63. When a boss requires that an employee work overtime on a holiday, the boss shall pay holiday overtime pay to the employee at a rate that is not less than three times the hourly wage rate on a working day in accordance with the number of hours worked, or not less than three times the piece work rate paid for past work for employees paid on the basis of piece work.

Section 64. When a boss has not arranged for an employee to take a work break or has arranged for the employee to have a work break that is less than that which is prescribed under Section 28, 29 and 30, the boss shall pay holiday pay and holiday overtime pay to the employee at the rates which are prescribed in Sections 62 and 63 as if the boss had instructed the employee to work on a holiday.

Section 67. When the boss terminates the employment of an employee, and the reason is not included among those listed under Section 119, the boss shall pay wages to the employee for the annual leave in the year of termination of employment in accordance with the ratio of annual leave which the employee is entitled to and including the accumulated annual leave under Section 30.

Section 70. A boss shall pay wages, overtime pay, holiday pay and holiday overtime pay correctly and in accordance with the following deadlines:

- (1) When wages are calculated on a weekly, daily, hourly or on the basis of some other period of time which is not more than one month, or in accordance with work calculated at a piece rate, payment shall be made not less than once a month, unless there is an agreement otherwise which is to the benefit of the employee.
- (2) When wages are calculated other than in subsection (1), payment shall be made in accordance with the deadline agreed on between the boss and the employee.
- (3) Overtime pay, holiday pay and holiday overtime pay shall be paid not less than once a month.

When a boss terminates the employment of an employee, the boss shall pay the wages, overtime pay, holiday pay and holiday overtime pay which the employee is entitled to receive to the employee within three days from the date of termination of employment.

Section 75. When it is necessary for a boss to stop all or part of the business temporarily for any reason which is not an act of god, the boss shall pay the employee not less than fifty percent of the working day's wage which the employee had received before the boss stopped the business throughout the time period when the boss does not permit the employee to work.

A boss shall inform the employee and the Labour Inspection Officer in advance before the date of commencement of stoppage of business under paragraph one.

Section 76. A boss shall not deduct wages, overtime pay, holiday pay and holiday overtime pay unless it is a deduction for the purpose of

- (1) paying income tax in the amount which has to be paid by the employee or paying other monies as provided for by law,
- (2) paying trade union dues under the articles of the trade union,
- (3) paying the debts of a savings cooperative or some other cooperative which has the same characteristics of those of a savings cooperative, or debts which are for the beneficial welfare of the employees solely, wherein consent has been obtained in advance from the employees,
- (5) depositing money for the employee in a savings fund under an agreement with the employee regarding such a fund.

With regard to deductions under subsections (2) to (5), in each case deductions of more than ten percent are prohibited and the total deductions may not be more than one fifth of the money which the employee is entitled to receive on the date for payment under Section 70, unless consent has been obtained from the employee.

Section 77. When a boss must obtain consent from the employee or has an agreement with the employee on the payment of money under Sections 54 or 55 or deductions under Section 76, the boss must do so in the form of a letter providing such consent and give it to the employee to sign, or must have a clear and specific agreement between them.

Section 116. When a boss conducts an inquiry regarding an employee who has been ac-

cused of committing an offence, the boss is not allowed to order the employee to be suspended from work during the said inquiry unless the work rules and regulations or points of agreement on the terms of employment empower the boss to suspend the employee from work. In this regard, the boss must issue a written suspension order stating the offence and a period of suspension of not more than seven days, such that the employee must be informed in advance before being suspended from work.

During the suspension under paragraph one, the boss shall pay money to the employee at the rate which is prescribed in the rules and regulations or as agreed on between the boss and the employee in the points of agreement on the terms of employment. In this regard, the said rate must not be less than fifty percent of the working day's wage which the employee had received before being suspended from work.

Section 117. Upon completion of the inquiry, if it transpires that the employee is not guilty, the boss shall pay wages to the employee in an amount equal to his working days' wages calculated from when the employee was suspended from work, except that the money which had been paid by the boss under Section 116 shall be counted as part of the wages under this Section, together with interest at fifteen percent per annum.

Chapter 11 - Compensation Payments

Section 118. A boss shall pay compensation to an employee whose employment has been terminated as follows:

(1) An employee who has worked consecutively for a full one hundred and twenty days but less than one full year shall be paid not less than thirty days the last wage rate or not less than the wages for the last thirty days of work in respect of an employee who is paid a wage on a piece work basis.

(2) An employee who has worked consecutively for one full year but not a full three years shall be paid at least an amount equivalent to ninety days' pay at his or her most recent wage rate or not less than the wages earned for the last ninety days of work in respect of an employee who is paid a wage on the basis of piece work.

(3) An employee who has worked consecutively for a full three years but not a full six years shall be paid an amount at least equivalent to one hundred and eighty days' pay at his or her most recent wage rate, or not less than the wages earned for the last one hundred and eighty days of work in respect of an employee who is paid a wage on the basis of piece work.

(4) An employee who has worked consecutively for a full six years but not a full ten years shall be paid an amount equivalent to at least two hundred and forty days' pay at his or her most recent wage rate or not less than the wages earned for the last two hundred and forty days of work in respect of an employee who is paid a wage on the basis of piece work.

(5) An employee who has worked consecutively for a ten full years or more shall be paid an amount equivalent to at least three hundred days at his or her most recent wage rate, or not less than the wages for the last three hundred days of work in respect of an employee who is paid a wage on the basis of piece work.

Termination of employment under this Section means any action by which the boss does not allow the employee to continue to do work and does not pay wages to the employee, regardless of whether the cause is the cessation of the employment agreement or another cause, and the meaning also covers cases where an employee does not do work and is not paid wages because the boss is unable to continue business operations.

The provisions in paragraph one shall not apply to employees who have a fixed term of employment and whose employment is terminated in accordance at the end of the specified term.

Fixed term employment under paragraph three may be effected in respect of employment for work in specific projects which are not the normal work of the boss's business or trade, and which must have a definite beginning and end of employment, or for seasonal work for which employment is effected during the period of such seasons, to the extent that the work must be completed within a period of not more than two years, and that the boss and the employee had made a written agreement as such upon commencement of employment.

Section 119. A boss need not pay compensation to an employee whose employment is ter-

minated in any of the following cases:

- (1) Dishonesty in carrying out duties or deliberate commission of a crime against the boss.
- (2) Intentionally causing the boss to suffer damage.
- (3) Negligence, causing the boss to suffer serious damage.
- (4) Violation of the work rules and regulations or the boss' lawful and legitimate regulations or orders, where the boss had already issued a written warning, except that in serious cases the boss need not issue such a warning. A letter of warning shall be enforceable for not more than one year calculated from the date on which the employee committed the offence.
- (5) Abandonment of post for three consecutive working days, regardless of whether there was a holiday in between or not, for no appropriate reason.
- (6) Imprisonment under a final judgement ordering imprisonment, unless the sentence was for an offence which was committed out of negligence or a petty offence.

Section 78 of the labour protection act 1998: There shall be a Wages Committee made up of the Permanent Secretary to the Ministry of Labour and Social Welfare as Chairman of the Committee, four government representatives, five boss representatives and five employee representatives appointed by the Cabinet as members of the Committee, and a government civil servant from the Ministry of Labour and Social Welfare appointed by the Minister as Secretary.

The criteria and procedures for obtaining the boss representatives and the employee representatives under paragraph one shall be in accordance with the regulations prescribed by the Minister.

Section 79. The Wages Committee has the following authority and duties:

- (1) to offer opinions to the Cabinet in connection with wages policy.
- (2) to offer opinions to the Cabinet reflecting recommendations of the private sector in connection with the fixing of wages and the annual wage adjustments.
- (3) To fix the basic minimum wage rate.
- (4) To fix the minimum wage rates which employees should receive commensurate with economic and social conditions.
- (5) To offer opinions to the Cabinet for development of the wages system.
- (6) To give academic recommendations and guidelines for coordination of interests to the various work units in the private sector.
- (7) To report to the Minister at least once a year in connection with the wages situation and wage trends as well as the measures which should be carried out.
- (8) To take any other action provided for by this Act or other laws within the authority and duty of the Wages Committee or as assigned to it by the Cabinet or the Minister.

When offering opinions to the Cabinet, the Wages Committee may include observations on the development of the national income system.

Section 80. The members of the Wages Committee who are appointed by the Cabinet shall serve for two years per term. A committee member who retires from office may be reappointed.

Section 87. When considering the prescription of the minimum wage rates and the basic minimum wage rate, the Wages Committee shall study and consider the facts connected with the wage rates which are actually being received by employees, together with other facts, especially the Cost of Living Index, the rate of inflation, living standards, costs of production, prices of goods, capabilities of businesses, labour productivity, the Gross National Product, and the economic and social situation.

Minimum wage rates may be prescribed specifically for any sector of business, for all such sectors, or for all the sectors in any particular locality.

The minimum wage rates prescribed must not be lower than those prescribed by the Wages Committee.

Section 91. There shall be an Office of the Wages Committee in the Ministry of Labour and Social Welfare and it shall have the following authority and duties:

- (1) To prepare project work plans for presentation to the Wages Committee and the sub-

committees.

(2) To coordinate the plans and the operations of the Wages Committee and the subcommittees as well as those of the work units concerned.

(3) To compile, study, research, analyse and assess the economic, labour, living, labour expansion, labour productivity, investment, and base relocation circumstances as well as related information for use as information for consideration by the Wages Committee and the sub-committees.

(4) To recommend study results and results of consideration of academic information and other supplementary measures to the Ministry of Labour and Social Welfare and the work units concerned for the benefit of the development of wages and incomes policies.

(5) To monitor and assess the results of work performance in accordance with the resolutions of the Wages Committee.

(6) To perform other work assigned by the Wages Committee or the sub-committees.

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 was 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.

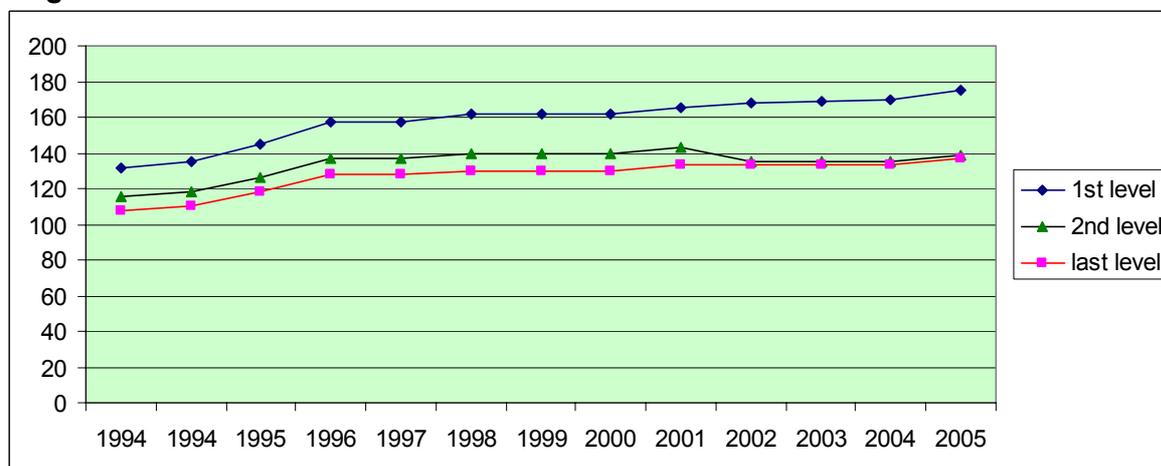
Minimum wage rates as per January 1, 2007

Minimum Wage Rate (Baht)	Areas
191	Bangkok Metropolis, Nonthaburi, Pathum Thani, Nakhon Pathom, Samut Sakhon and Samut Prakarn
186	Phuket
172	Chonburi
168	Saraburi
162	Nakhon Ratchasima
161	Rayong
155	Chachoengsao, Nakhon Si Ayutthaya and Ranong
159	Chiang Mai, and Pangnga,
156	Krabi, and Phet Buri
155	Chanthaburi, Karnchanaburi, and Lopburi
154	Ratchaburi, Samut Songkhram and, Sra Keow
152	Trang, Prachuab Khiri Khan, Prachin Buri, Songkhla, Sing Buri and Ang Thong
150	Udon Thani, and Loei
149	Chumphon, Trad, Lamphun, Lampang, Sukhothai, and Supan Buri,
148	Kalasin, Khon Kaen, Nakhon Panom, Nakhon Si Thammarat, Narathivas, Burirum, Pattani, Yala, Satun, and Nong Khai,
147	Kamphaeng Phet, Tak, Nakhon Nayok, Nakhon Sawan, Phattalung, Phitsanuloke, Phetchabun, Surat Thani, and Uttradit
146	Chai Nath, Chaiyaphum, Chiang Rai, Maha Sarakhram, Mukdaharn, Yasothon, Roi Et, Si Sa Ket, Sakon Nakhon, Nong Bua Lumpoo, and Uthai Thani,
145	Pichit, Mae Hong Son, Surin, Ubon Ratchathani, and Amnaj Charoen,
144	Payao, and Prae
143	Nan

The minimum wage in Thailand increased only 40 Baht between 1994 and 2004, while the

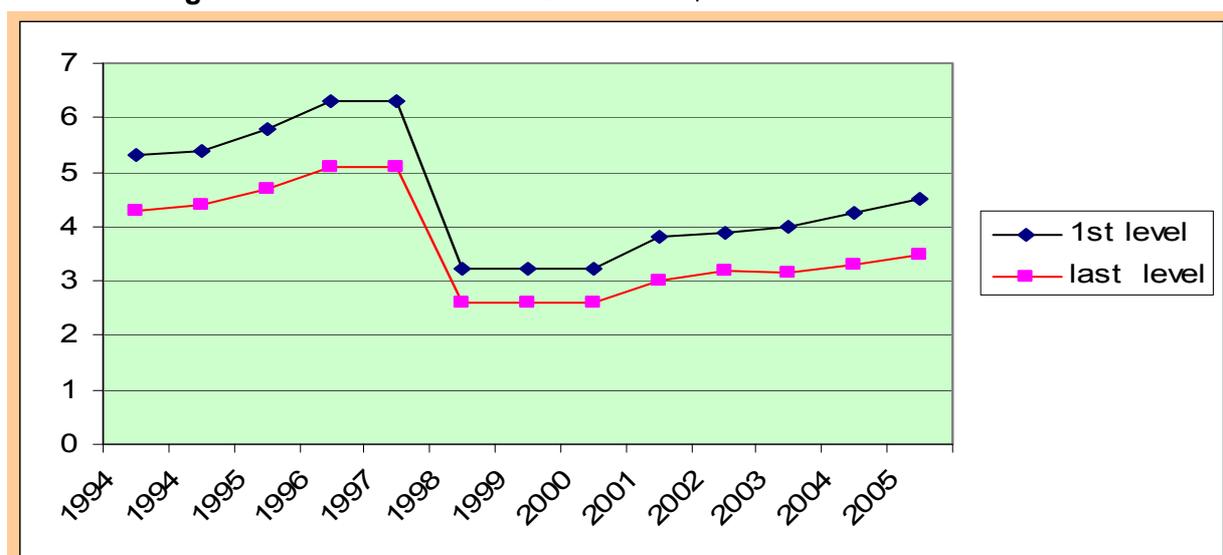
currency exchange rate dropped 80 –100% from 25 Baht per Dollar to 39 – 50 Baht per Dollar since the economic crisis of 1997. However, the government of Thailand has claimed that the economy in Thailand has recovered with GDP increases of over 6% every year. It is also claimed that the Thai Stock Exchange has increased from over 200 to nearly 800, which is a 300% increase.

Wage scale in Thailand from 1993 – 2004



Junya, Wage scale in Thailand from 1993 – 2004⁴⁶

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



Junya

The 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).

⁴⁶ Ministry of Labour, minimum wage, download from www.labour.co.th

Minimum wage scale in Thailand from 1996-2002



	1996	1997	1998	1999	2000	2001	2002
Minimum wage (baht/day)							
(Effective Date)	(1 μ.σ.)	-	(1 Á.σ.)	-	-	(1 Á.σ.)	(1 j.σ.)
	(1 Oct.)		(1 Jan.)			(1 Jan.)	(1 Jul.)
Phuket	157	157	162	162	162	165	168
Bangkok and 5 provinces 1/	157	157	162	162	162	165	165
Chonburi	137	137	140	140	140	143	146
Chiang Mai, Nakorn Ratchasima,	137	137	140	140	140	143	143
Phang Nga, Ranong, and Saraburi							
Ang Thong	128	128	130	130	130	133	138
Chachoengsao	128	128	130	130	130	133	137
Singburi and Narathiwat	128	128	130	130	130	133	135
The rest of the country	128	128	130	130	130	133	133

Note : Figures in parentheses represent annual growth or percentage changes from the same period of the previous year

1/ Including Samut Prakan, Nonthaburi, Pathum Thani, Nakhon Pathom, and Samut Sakhon

Source : Ministry of Labour and Social Welfare

Employees who have worked more than 120 days, but less than one year, are entitled to 30 days severance pay. For personnel employed between one and three years, the severance pay is not less than 90 days pay. Employees with three to six years of service will receive six months salary, those with more than six to 10 years service will receive eight months salary, and employees with more than 10 years service will receive 10 months salary⁴⁷.

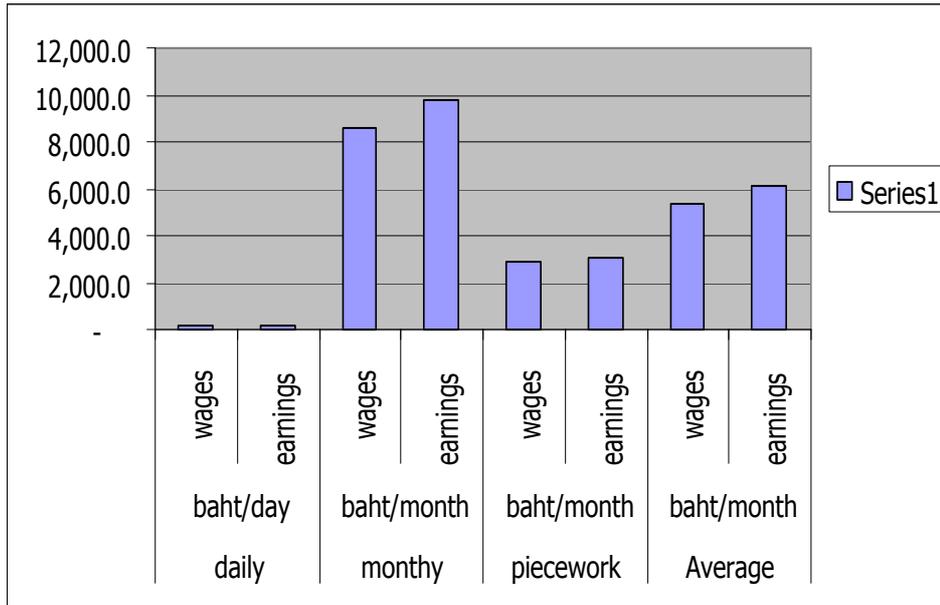
Comparative income of the garment workers

daily		monthly		piecework		Average	
baht/day		baht/month		baht/month		baht/month	
Wages	earn-ings	wages	earn-ings	wages	earn-ings	wages	earn-ings
160.5	188.2	8,612.8	9,747.6	2,930.9	3,064.2	5,364.3	6,100.5

Source: The Office of Thai Labour Standard, Ministry of Labour

⁴⁷ http://www.boi.go.th/english/why/human_resources.asp

Comparative income of the garment workers



List of most common food items that football workers eat with prices in Thai Baht⁴⁸:

Breakfast

One pack of milk/ soy milk	10
-or-	
rice topped with meat	20
-or-	
Sticky rice with few pieces of salted pork	15
A coffee	10
Sub-total	20-30

Lunch

One bowl of noodle	20
-or-	
rice topped with meet	15
sub-total	15-20

Dinner

Somtorn (papaya salad)	15
Spicy soup	15
Fried vegetable	15
Rice	5
Sub-total	50

Fruit

1 kilo of oranges	30
Total food expenses per day	115-130 baht
Total monthly food expenses (30 days)	3,450- 3,900 baht

Other monthly expenses (baht)

Accommodation

Rent 3,500 baht (shared with 4)	800
Electricity and water	100-200
Transportation to factory (30 baht per day)	780
Personal needs	700-1,000
Remittances for a child	1,500-2,000
Total other expenses	3,880-4,780
Grand total of basic monthly needs	7,310-8,680 baht

From an interview with 4 workers in the Eastern Seaboard area including subcontracted

⁴⁸ The life of football factory workers in Thailand, Junya Lek Yimprasert, Thai Labour Campaign, June 30, 2006

workers and senior workers with 18 years of experience in the same factory. Monthly wages are 4,500 baht (173 baht x 26 days) for subcontracted workers and 9,700 baht for the most senior production workers.

Topic: [Retail prices of selected food items](#)⁴⁹

THAILAND (Baht)		[List of countries/areas selected]		
>> List of food item groups:				
CEREALS		SUGAR		
MEAT, POULTRY, FISH		NON-ALCOHOLIC BEVERAGES		
MILK AND DAIRY PRODUCTS		ALCOHOLIC BEVERAGES		
EGGS		MISCELLANEOUS		
FATS AND OILS				
FRUITS AND VEGETABLES				
		[Notes] [Item group]		
Food item group: CEREALS		2003	2004	2005
1.Rice, long grain 1kg			22.32 ¹	22.28 ¹
2.Wheat flour, white 1kg			30.79 ¹	30.76 ¹
9a.Wheat bread, white, sliced, wrapped 500g			25.91 ¹	26.11 ¹
13.Corn flakes 500g				159.50 ¹
		[Notes] [Item group]		
Food item group: MEAT, POULTRY, FISH		2003	2004	2005
18b.Beef, without bone 1kg			139.08 ¹	141.11 ¹
24a.Pork, with bone 1kg			86.65 ¹	91.04 ¹
24b.Pork, without bone 1kg			91.30 ¹	97.67 ¹
27.Chicken, cleaned 1kg			49.41 ¹	56.17 ¹
30a.Fish, fresh 1kg			116.89 ^{2 1}	125.89 ^{2 1}
30b.Fish, fresh 1kg			89.86 ^{2 1}	92.75 ^{2 1}
30c.Fish, fresh 1kg			40.91 ^{2 1}	41.20 ^{2 1}
		[Notes] [Item group]		
Food item group: MILK AND DAIRY PRODUCTS		2003	2004	2005
34a.Cow's milk, fresh, whole, pasteurised 1l			33.00 ¹	33.04 ¹
36b.Cow's milk, condensed, sweetened 400g			21.94 ¹	22.33 ¹
37.Infant's milk formula, powdered 500g			106.13 ¹	106.50 ¹
38c.Cheese, other 250g				99.50 ¹
39.Butter 250g			39.14 ¹	40.24 ¹
40.Ice cream 0.5l			44.49 ¹	44.49 ¹
		[Notes] [Item group]		
Food item group: EGGS		2003	2004	2005
41.Chicken eggs, fresh 12 eggs			34.56 ¹	36.24 ¹
42.Duck eggs, fresh 12 eggs			43.08 ¹	49.80 ¹
		[Notes] [Item group]		
Food item group: FATS AND OILS		2003	2004	2005
47.Lard 500g			15.42 ¹	15.88 ¹

⁴⁹ <http://laborsta.ilo.org/applv8/data/tO2e.html>

	[Notes]	[Item group]	
Food item group: FRUITS AND VEGETABLES	2003	2004	2005
48.Oranges 1kg		34.65 ¹	35.04 ¹
49.Lemons 500g		8.45 ¹	10.00 ¹
50.Bananas 1kg		6.23 ¹	7.48 ¹
51a.Pineapple, fresh 1kg		13.68 ¹	14.03 ¹
52.Apples 1kg			61.26 ¹
53.Grapes 1kg			56.14 ¹
54.Papayas 1kg		21.26 ¹	20.32 ¹
55.Mangoes 1kg		42.32 ¹	43.16 ¹
56.Coconut 1kg		17.20 ¹	18.98 ¹
57b.Peanuts (groundnuts), without shells 100g		4.78 ¹	5.08 ¹
61.Cabbage 1kg		15.54 ¹	19.76 ¹
62.Chinese cabbage (pak choy) 1kg		24.82 ¹	26.58 ¹
63.Tomatoes 1kg		26.07 ¹	28.72 ¹
66.Egg-plants (aubergines) 1kg		19.23 ¹	21.18 ¹
67.Green peppers 1kg		26.27 ¹	27.84 ¹
68.Chillies, dried 1kg		116.79 ¹	116.50 ¹
	[Notes]	[Item group]	
Food item group: SUGAR	2003	2004	2005
82.Sugar, white 1kg		14.25 ¹	14.40 ¹
	[Notes]	[Item group]	
Food item group: NON-ALCOHOLIC BEVERAGES	2003	2004	2005
84.Instant coffee 250g		115.91 ¹	115.46 ¹
88.Soft drink 0.33l		8.25 ¹	8.50 ¹
	[Notes]	[Item group]	
Food item group: ALCOHOLIC BEVERAGES	2003	2004	2005
90.Beer 0.33l		24.43 ¹	24.37 ¹
	[Notes]	[Item group]	
Food item group: MISCELLANEOUS	2003	2004	2005
91.Salt 250g		2.73 ¹	2.76 ¹

NOTES: ¹Annual averages. ²Whole.

	2003	2004	2005
	104.1	107.0 ¹	111.8

Topic: [Consumer prices, food indices \(2000=100\)](#)

	2003	2004	2005
	104.7	109.4 ¹	114.9

Topic: [Consumer prices, electricity, gas and other fuels indices \(2000=100\)](#)

	2003	2004	2005
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	111.1	116.0 ¹	119.0
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Topic: [Consumer prices, clothing indices \(2000=100\)](#)

	2003	2004	2005
	101.5	101.7 ¹	102.1

Topic: [Consumer prices, rent indices \(2000=100\)](#)⁵⁰

Kenan Institute while performing audits on behalf of FLA found that the non-conformities regarding wage payments ranked second to Health and safety concerns. The most important factor was the method used to calculate a workers wage. Generally, workers rarely have access to clear information about their wages and benefits and are unwilling to express dissatisfaction with their ability to get information to their supervisors. Another major obstacle towards code compliance concerns the overall human resource policy and management attitude towards the workforce. Most of the voluntary labour standards, codes of conduct and Thai law prohibit the use of monetary fines or penalties as disciplinary measures. Management applies penalties in many areas, such as late arrival, general disobedience and the presence of personal items deemed inappropriate in the production area. Thailand pays a daily wage not an hourly wage which means the minimum wage of 191 baht (in Bangkok) must be paid regardless of the infraction. Management feels that wage cuts are the only way to ensure a disciplined workforce. Minimum wages barely cover the daily necessities and rent, and workers often live in substandard conditions in order to send a small percentage of their income home to their families, who typically live in rural Thailand. This concern may need further discussions between relevant governmental agencies, NGOs and factory owners to determine and institutionalize an appropriate and fair solution⁵¹.

4.5.3 Guidance for auditors

Mind:

- Income may be more than just salary.
- Many factories use piece rate bonus.
- Meal and transport costs and union dues can be deducted from the wage.
- Some company may apply financial fines not by deduction from a worker's wage but to be paid cash on the spot.

Minimum Wage:

- Does facility comply with Minimum Wage laws?
- Do workers earning piece rate all earn at least Minimum Wage?
- Payroll & wage records clear & accurate? Confirmed by workers?
- Pay & Communication:
 - Does factory clearly communicate wages, benefits, and bonuses to workers? Do workers understand how to calculate their pay?
 - Do workers receive clear, detailed & comprehensible pay slip?
- Leave & Benefits:
 - Workers receive all benefits & annual leave as required?
 - Do juvenile workers, pregnant women receive legal benefits?
 - All deductions documented? Paid promptly? Social Security? Health insurance?
- Bonuses paid as per contract, CBA, law?
- Seniority & Severance:

⁵⁰ <http://laborsta.ilo.org>

⁵¹ Analyst report of Labor standards audit in Thailand for the year of 2004 – 2006; based on Fair Labor Association (FLA) program, by Labor Standards Unit / Kenan Institute Asia

- Workers credited w/ all time worked from date of entry?
- Severance paid according to law, contract, CBA?

Documentation & Management system:

- Company has clear, accurate & reliable pay system and maintains good records to show payment of all wages and benefits earned.
 - Clear, accurate and understandable pay system.
 - Payrolls and time records
 - The payroll and employee wage statements must contain all information necessary for an employee to calculate the monthly wages and allowance, including all lawful and reasonable deductions
 - The wage structure should encourage good job performance rather than simply high volume.

4.6. No Excessive Working Hours

The FWF Labour Standard:

"Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7-day period. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate." (ILO Convention 1)

4.6.1 Laws and Regulations

Section 23 of the labour protection act 1998: A boss shall announce the normal hours of work for the information of the employee, such that the prescription of the employee's time of commencement and time of finishing of work for each day does not exceed the hours of work for each of the job categories as prescribed in ministerial regulations, but one working day must not exceed eight hours and the total hours of work in one week must not exceed forty eight hours, except that one day's normal hours of work for work which might be hazardous to the health and safety of the employee as prescribed in ministerial regulations must not exceed seven hours and in such a case, the total hours of work in one week must not exceed forty two hours.

When a boss is unable to announce and fix the time of commencement and time of finishing of work for each day due to the characteristics or nature of the work, the boss and the employee shall arrive at an agreement with each other and fix the number of hours of work for each day which must not exceed eight hours and in such a case, the total hours of work for each week must not exceed forty-eight hours.

Section 24. A boss is not allowed to tell an employee to work overtime on a working day unless the consent of the employee has been obtained on a case-by-case basis.

When the characteristics or nature of the work requires the work to be performed continuously, such that if there is a stoppage it will cause damage to the work, or where the work is emergency work or such other work as prescribed in ministerial regulations, the boss may order the employee to work overtime to the extent necessary.

Section 25. A boss is not allowed to order an employee to work on a holiday, except when the characteristics or nature of the work requires the work to be performed continuously, such that if there is a stoppage it will cause damage to the work, or when the work is emergency work; in such cases the boss may order the employee to work on a holiday to the extent necessary.

In the interests of production, sales and services, a boss may order an employee to perform work, in circumstances other than those stipulated in paragraph one and paragraph two, on a holiday to the extent necessary, such that the consent of the employee has been obtained first on a case-by-case basis.

Section 26. The amount of overtime under paragraph one of Section 24 and the holiday hours of work under paragraph two and paragraph three of Section 25, when combined, must not exceed the amount prescribed under ministerial regulations.

Section 27. On a day on which work is performed, the boss shall arrange for the employee to have a rest period of not less than one hour per day during the work after the employee has been working for not more than five consecutive hours. The boss and the employee may agree in advance that a rest period shall be less than one hour but, when combined together, there must not be less than one hour of rest in each work day.

If it is beneficial for an employee to agree with his or her boss on a rest period other than that provided under paragraph one, such an agreement shall be enforceable.

Rest periods during work shall not be counted as hours of work except that, if the combined rest periods in one day exceed two hours, the hours in excess of two hours shall be counted as normal hours of work.

When overtime is to be performed continuously for not less than two hours in excess of normal working hours, the boss must arrange for the employee to have a rest period of not less than twenty minutes before the employee commences such overtime work.

The provisions in paragraph one and paragraph four shall not apply when the employee performs work which because of its characteristics or nature of must be performed continuously, when the consent of the employee has been obtained or the work is emergency work.

Section 28. A boss shall arrange for an employee to have a weekly holiday of not less than one day per week, such that the interval between weekly holidays must be not be less than six days. The boss and the employee may agree in advance to fix any day as the weekly holiday.

Section 29. A boss shall announce and fix the traditional holidays for the information of the employees in advance. The number of traditional holidays in one year shall not be less than thirteen days, inclusive of the National Labour Day as prescribed by the Minister in a notification.

Section 30. An employee who has been working consecutively for a full year is entitled to take annual leave of not less than six working days per year; the boss shall be the person to determine in advance when the said leave for the employee shall be taken or shall determine it in by agreement with the employee.

In the following years, the boss may determine annual leave for the employee of more than six working days.

A boss and an employee may agree in advance to accumulate and postpone annual leave which has not been taken in that year to be combined with the annual leave of the following years.

With regard to an employee who has worked for less than one year, the boss may determine the annual leave for the employee on a prorata basis.

Section 31. A boss shall not be allowed to order an employee to perform overtime work or holiday work which might be hazardous to the health and safety of the employee as per paragraph one of Section 23.

Section 32. An employee shall be entitled to take medical leave in accordance with the actual extent of illness. For medical leave of three working days or more, the boss may require the employee to produce a medical certificate from a doctor of first class modern medicine or from a government medical facility. When the employee is unable to produce a medical certificate from a doctor of first class modern medicine or from a government medical facility, the employee shall give an explanation to the boss.

When the boss provides a doctor, that doctor shall be the person to issue the certificate, unless the employee is unable to let that doctor examine him or her.

Days on which an employee is unable to work due to an injury or illness arising from work, and maternity leave days under Section 41 shall not be considered to be medical leave under this Section.

The maximum number of hours for non-hazardous work is eight hours a day or 48 hours a week in total. In some types of work as stipulated by law, the employer and the employee may agree to arrange the period of working hours, but it still must not exceed 48 hours a

week. Hazardous work may not exceed seven hours a day, or 42 hours per week. Employees are entitled to no fewer than 13 national holidays a year, and a minimum of six days of annual vacation after working consecutively for one full year. Employees have the choice of whether they wish to work overtime or on holidays. All employees are entitled to a daily rest period of at least one hour after working five consecutive hours. The employer and the employee may arrange the daily rest period to be shorter than one hour at each time, but it must not be less than one hour a day in total. A weekly holiday of at least one day a week at intervals of a six-day period must be arranged by the employer.

For work performed in excess of the maximum number or working hours fixed either by law or by specific agreement (if the latter is lower), employees must be paid overtime compensation. The rates for overtime vary and range from 1-1/2 times to three times the normal hourly wage rate for the actual overtime worked. The maximum number of overtime working hours is limited to not more than 36 hours a week.⁵².

4.6.2 Compliance situation

In the factories audited by Kenan Institute there were quite a few areas of concern under the Thai Labor Protection Act. The Thai law permits up to 36 hours overtime on a weekly basis; the FLA standards promote reducing this to approximately 12 hours overtime. This presents a serious difficulty for factory owners who are under extreme pressure from customers to meet short order periods. The factories need to increase productivity and are reluctant to hire additional staff as the work fluctuates throughout the year. The conundrum is that workers desperately need the overtime hours because minimum wages barely cover the daily necessities.

Calculation of overtime, rather than compensation for overtime was the issue cited by many workers. For the most part, this issue was evidenced in workers who were paid on a piece rate⁵³.

4.6.3 Guidance for auditors

Basic questions concerning OT:

- Does OT follow all limits in local law & regulations?
- Does OT comply with Code limits?
- Is OT voluntary? Can workers refuse OT without penalty?
- Documented?
- Rest times:
- Does factory comply with legal provisions on day of rest?
- Does factory comply with one-day-in-seven code requirement?
- Reasonable meal and rest breaks ? Comply with local law?
- Time recording :
- Workers paid for all hours worked?
- Does factory have an accurate & reliable time recording system?
- Do time cards, swipe cards, manual records match all evidence?
- Does the factory use fraud? Double books? Hidden payrolls?

Auditors should keep in mind that:

- Even if a company has a computer system the supervisors often have a manual time record. A computer system is easier to manipulate. By worker interviews you can double check time registration systems with clocks or swipe cards: One person may sign for the whole line.
- OT is sometimes used as an alternative to new recruitment. Auditors can cal-

⁵² http://www.boi.go.th/english/why/human_resources.asp

⁵³ Analyst report of Labor standards audit in Thailand for the year of 2004 – 2006; based on Fair Labor Association (FLA) program, by Labor Standards Unit / Kenan Institute Asia

culate if OT is such an amount and so frequent as to justify the hiring of extra persons.

- Auditors should ask if factories have back ups for workers that do not want to do OT.

Documentation & Management system:

- Clear well-documented and understood policy and procedure for voluntary OT sign up.
- Reliable time recording system.
- No double time card or payroll system are used
- Production targets and productivity levels are based on a regular work week and not excessive overtime
- Encourage workers to keep their own daily working hour records. Print out a statement of the working hours for workers to check before they receive pay.
- Hourly records and payroll maintained in good conditions and on site.
- Good communication with workers is essential.

Overtime Compensation

- Premium Pay for OT:
- Workers receive premium pay for OT?
- In compliance with local law?
- Is OT pay properly paid & calculated?
- Including piece rate?
- Pay for Holidays & Leave:
- Work on holidays or leave days receives premium pay?
- In compliance with local law?

4.7. Health and Safety

The FWF Labour Standard:

A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Appropriate attention shall be paid to occupational hazards specific to this branch of the industry and assure that a safe and hygienic work environment is provided for. Effective regulations shall be implemented to prevent accidents and minimize health risks as much as possible (following ILO Convention 155). "Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer are strictly prohibited."

4.7.1 Laws and Regulations

Chapter 8 of the labour protection act 1998:

Work Safety, Occupational Health and Environmental Conditions

Section 103. The Minister shall have the authority to issue ministerial regulations setting the standards to be applied by bosses in the administration of and arrangements for work safety, occupational health and environmental conditions.

Section 104. When the Labour Inspection Officer discovers that any boss is in violation of or not in compliance with a ministerial regulation issued under Section 103, the Labour Inspection Officer shall have the authority to issue a written order requiring the boss to improve the work environmental conditions, buildings or premises or prepare or rectify the machinery or equipment which must be used by an employee in the performance of duties or which are connected with the performance of duties correctly or appropriately within a prescribed time period.

Section 105. When the Labour Inspection Officer discovers that the conditions of the work environment, buildings, premises, machinery or equipment used by an employee will endanger the safety of employees or that the boss has not complied with an order of the Labour Inspection Officer under Section 104, after receipt of approval from the Director-General or a

person assigned by the Director-General, the Labour Inspection Officer shall have the authority to order the boss to stop the usage of all or part of the said machinery or equipment temporarily.

A boss shall pay an employee for whom the Labour Inspection Officer ordered, under paragraph one, the boss to stop operating machinery or equipment an amount equal to the wages that would have been paid on work days throughout the entire period that the employee stopped work until the boss has proceeded correctly in accordance with the order of the Labour Inspection Officer.

Section 107. Bosses shall arrange for employees to undergo physical examinations and send the results of the said examinations to the Labour Inspection Officer. These shall be carried out in accordance with the criteria and procedures prescribed in ministerial regulations.

A female employee is entitled to maternity leave for a period of 90 days including holidays, but paid leave shall not exceed 45 days.

Employees can take as many days of sick leave as necessary, but if an employee takes three months of sick leave, the employer is required to pay only one month's wages⁵⁴.

Section 14 of the labour protection act (1998): A boss shall treat an employee correctly in accordance with the rights and duties which are prescribed in the Civil and Commercial Code, unless this Act prescribes otherwise.

Section 16 of the labour protection act (1998): A boss or a person who is a work chief, a work supervisor or a work inspector is not allowed to sexually harass an employee who is a female or a child.

Section 37. A boss shall be prohibited from ordering an employee to lift, tote, carry with both hands, carry suspended from the ends of a pole across the shoulder, carry on the head, drag or push a heavy object in excess of the weights prescribed in ministerial regulations.

Section 39. A boss shall be prohibited from allowing a pregnant female employee to work between the hours of 22.00 hours and 06.00 hours, to work overtime, to work on holidays or to do any of the following work:

- (1) Work connected with vibrating machinery or engines.
- (2) Work which moves along or goes off together with a vehicle.
- (3) The work of lifting, toting, carrying with both hands, carrying suspended from the ends of a pole across the shoulder, carrying on the head, dragging or pushing a heavy object in excess of fifteen kilograms.

Section 41. A pregnant female employee shall have the right to take maternity leave of not more than ninety days per pregnancy.

Section 42. When a pregnant female employee produces a medical certificate from a doctor of first class modern medicine stating that she is unable to continue to perform her existing duties, that employee shall have the right to ask the boss to change her existing duties temporarily before or after delivery, and the boss shall consider changing the work to work which is appropriate for that employee.

Section 43. A boss shall be prohibited from terminating the employment of a female employee on the basis that she is pregnant.

4.7.2 Compliance situation

From 2004-2006 Kenan Institute found that violation of this principle to be the most egregious. Effective safety systems are important to preventing accidents in the workplace. Workers and factory managers perceived this to be a very important issue. The non-conformities in this principle could be separated in 4 categories⁵⁵.

Details as following:

⁵⁴ http://www.boi.go.th/english/why/human_resources.asp

⁵⁵ Analyst report of Labor standards audit in Thailand for the year of 2004 – 2006; based on Fair Labor Association (FLA) program, by Labor Standards Unit / Kenan Institute Asia

1. Management system and personnel

The issue that we found in this category was the failure of workers to wear the personal protective equipment (PPE) such as ear plugs, masks, and metal gloves, when needed, whether the factories provided PPE or not. This implied that the factories had arranged inadequate safety training for its workers. Safety and accident reports had not been collected and reported regularly for at least one year, or longer if required. We found some non-conformities at the personnel level such as the lack of full-time professional safety officers. Additionally, the foremen were not trained as the safety officers at the foreman level, and the Committee for Safety Occupational Sanitation and the Working Environment did not survey the health and safety in their workplaces every month nor were monthly meeting with the management held.

2. Safety engineering

Mechanical Safety: Kenan found that not all machines had properly-installed safety guards. For example, some sewing machines did not install needle guards. In addition, there was no Work Instruction (WI) and Safe Work Instruction (SWI) information posted in the operation areas.

Electrical Safety: The major issue discovered in this area was the lack of an annual electrical inspection conducted by a properly trained and certified engineer.

Fire Safety: The non-conformities included: 1). More than 60% of all workers had not received fire fighting training; 2). the fire extinguishers had not been inspected every 6 months; 3). Evacuation procedures were not posted in the work areas; 4). no emergency lights in the hallways; 5). the evacuation floor plan did not match with the operation area.

Boiler Safety: we found the factory boilers did not receive an annual inspection by a trained and certified engineer, the worker assigned to control the boiler had not been trained in boiler safety issues, the boiler control rooms did not post Work Instructions (WI), and no emergency lights had been installed.

Elevator Safety: the major issues in this area included the lack of annual elevator inspection by an engineer and also no sign of weight limitation posted.

3. Safety in the work environment

The issue that Kenan Institute found in this category was that the factories did not establish a report on safety and assessment of the hazardous chemicals used in the workplace, a report indicating the concentration of the hazardous chemicals in the atmosphere around the workplace, and no Material Safety Data Sheet (MSDS) available. Workers were not trained in the safety procedures necessary for working with the hazardous chemicals, and the factories did not arrange a specific medical check-up for all workers potentially exposed to hazard chemicals. In addition, factories did not install the ventilation system sufficiently in the chemical areas and there was no installation of emergency eye wash in that area.

4. Harassment and abuse

With regard to harassment and abuse, the Kenan Institute rarely found non-conformity while performing audits in behalf of FLA. The majority of non-compliance issues arose from the lack of company policies addressing harassment and abuse. In addition, lack of well training of management in disciplinary practices should be mind attention because the management or supervisor levels will be the person who provides the proper disciplinary practices. Occasionally during a peak season, supervisor will raise his voice or verbally threaten by using verbal language to rush up the production to meet to target. The monitors recommend that if the factory manages the harassment and abuse policy efficiently, it can be a very good tool to promote good practice in the factory.

The above non-conformities imply that the audited factories lacked effective health & safety management systems to enable them to provide more training and education to encourage all workers to participate in health and safety activities.

4.7.3 Guidance for auditors

- Health checks in itself are not sufficient, companies should compile lists of workers with specific problems, analyse causes and make a plan for follow up that contains preventive measures.

- Companies should have a list of pregnant workers and workers on maternity leave.

Legal Requirements:

- All legally required permits, licenses, inspections...
- Safety & accident reports & documentation for at least 1 year
- Fire & Emergencies:
 - Is there an adequate evacuation plan? Posted? Signs? Drills?
 - Exits sufficient? Unlocked/unblocked? Signed & Lighted?
 - Stairs & aisles adequate? Unblocked? Safe?
 - Fire extinguishers & equip. adequate & maintained?
 - Electrical safety? Fire risks?
- Housekeeping?

Machine Safety:

- Machines have guards and safeties? Properly checked/maintained?
- PPE (Personal Protective Equipment)? Hazard warning signs?

Hygiene:

- Canteen, kitchen, food preparation clean and sanitary?
- Clean drinking water available to all?
- Sufficient clean & sanitary toilets? Soap? Sinks? Paper?

Health:

- Occupational health risks, problems? Annual health checks?
- First Aid boxes and clinic? Training ? Emergency plans and procedures?
- Hazardous chemicals in use? Safely? MSDS ? PPE?

Records & documentation regarding Health and Safety⁵⁶

Factory master plan or site plan: A plan showing the facility boundary and location of each building inside the boundary
ผังที่ตั้งและตำแหน่งอาคาร

Interior floor plan with the location of exit, fire fighting equipment (alarm, emergency light, hose, hydrant, fire cabinet, fire extinguisher, smoke/heat detector and sprinkle) toilet, emergency shower, first aid box and water dispenser station.
แผนผังโรงงานที่แสดงตำแหน่งทางหนีไฟ จุดติดตั้งอุปกรณ์ดับเพลิง ห้องน้ำ และที่บริการน้ำดื่ม

1. Floor area and factory area พื้นที่โรงงาน และพื้นที่อาคารผลิต แต่ละชั้น
2. Number of fire extinguisher, drinking water service station and toilet จำนวนถังดับเพลิง ห้องน้ำแยกชายหญิง และจุดบริการน้ำดื่ม ทั้งหมดในโรงงาน
3. Record / document required by local law and FWF
 - Factory permit required by the local law ใบอนุญาตต่างๆ ที่ต้องจัดให้มีตามกฎหมาย

For example:

 - *Factory Operation Permit ใบอนุญาตประกอบกิจการโรงงาน*
 - *Forklift operation permit ใบประกาศนียบัตร คนขับ forklift*
 - *Boiler operation permit ใบประกาศนียบัตรผู้ควบคุมหม้อไอน้ำ*
 - *Boiler Safety Permit ใบอนุญาตหม้อไอน้ำ ใบรายงานการตรวจความปลอดภัยของหม้อไอน้ำ*
 - *Business License ใบทะเบียนการค้า*
 - *Waste discharging Permit ใบอนุญาตระบายของเสีย (ถ้ามี)*
 - *Permit of treated wastewater discharging into public waterway ใบอนุญาตให้ระบายน้ำทิ้งลงทางน้ำสาธารณะ*
 - *Wastewater Treatment Permit/waste water testing report ใบอนุญาตระบบบำบัดน้ำเสีย*
 - *Document of solid waste management (such as contract with the local authority for handling of solid waste management) เอกสารที่เกี่ยวข้องกับการจัดการขยะต่างๆ เช่น สัญญาการจ้างขนขยะกับทางราชการ ใบเสร็จ*
 - *Safety Electrical System Certification/Permit รายงานการตรวจระบบไฟฟ้าของโรงงาน โดยกรมโรงงานอุตสาหกรรม*
 - *Elevator Safety Inspection Record/Permitใบตรวจสอบระบบลิฟท์*
 - *Permit for Deep well use (if available) ใบอนุญาตขุดเจาะและใช้น้ำบาดาล*
 - *Permit for operation of health harm related-manufacturing ใบอนุญาตประกอบกิจการที่เป็นอันตรายต่อสุขภาพ*
 - *Certification of Food Hygiene for food shop ประกาศนียบัตรรับความสะอาดของอาคารและการปรุงอาหารของร้านค้า ในโรงอาหาร*
 - Employee Safety Manual คู่มือความปลอดภัย
 - Written health and safety policy นโยบายด้านความปลอดภัย
 - List of chemicals stored in the facility and amount รายการสารเคมีที่ใช้และปริมาณการครอบครอง
 - Statement for occupied hazardous chemical in place of operation (MSDS), (optional, if the chemical exists in the

⁵⁶ List of Required Documents under the FWF monitoring Program, "For Thailand only", KIASIA-Kenan Institute Asia, "Partnering for Sustainable Development"

- workplace) ข้อมูลความปลอดภัยสารเคมีอันตราย
- Report on safety chemical and chemical risk assessment in workplace (optional, if the chemical exists in the workplace) แบบรายงานความปลอดภัยและการประเมินการก่ออันตรายของสารเคมีในสถานประกอบการ (ถ้ามี)
- Report on chemical testing the working atmosphere แบบรายงานการตรวจวัดปริมาณความเข้มข้นของสารเคมีอันตรายในบรรยากาศบริเวณสถานที่ทำงานและสถานที่เก็บสารเคมีอันตราย(สอ. 3)
- Report on environmental workplace evaluation such as air testing, noise, lighting and chemical testing รายงานการตรวจวัดทางสุขศาสตร์อุตสาหกรรมในสถานประกอบการ
- Annual health examination report for chemical operator รายงานการตรวจสุขภาพประจำปีของพนักงานที่ทำงานกับสารเคมี
- Accident investigation report/accident log (by case individually) รายงานการสอบสวนอุบัติเหตุ
- Notification name of professional safety office แบบแจ้งชื่อเจ้าหน้าที่ความปลอดภัย
- Report on work activities and performance of safety officer รายงานผลการดำเนินงานของเจ้าหน้าที่ความปลอดภัยในการทำงาน
- Safety standard Operation Procedure for existing task of operation คู่มือมาตรฐานความปลอดภัยในการทำงาน
- Notification of the mane of member of safety committee and รายชื่อคณะกรรมการความปลอดภัย
- monthly minute of meeting of OSH committee รายงานการประชุมประจำเดือนของคณะกรรมการความปลอดภัย
- Emergency plan and evacuation plan แผนฉุกเฉินเพื่อการผจญเพลิงและแผนการอพยพ
- Fire drill record รายงานการซ้อมดับเพลิงและการอพยพ
- Inspection record for all fire protection equipment in workplace บันทึกการตรวจสอบอุปกรณ์ป้องกันเพลิงทั้งหมด (sprinkle, heat-smoke detector, fire extinguisher, alarm, hose, emergency light)
- List of first aid supplies and pharmaceutical supplies in the clinic and health record (OPD) รายการเวชภัณฑ์ในห้องพยาบาลและรายงานสุขภาพผู้ป่วย
- Record of used medicine and pharmaceutical supply รายการเบิกจ่ายยาและเวชภัณฑ์
- Attendant record of medical personal in the clinic บันทึกการประจำการของเจ้าหน้าที่พยาบาล
- Training material, list of attendant, certification and photo relating to OSH, first aid, fire fighting & evacuation, chemical safety and machinery เอกสารการฝึกอบรมในเรื่องความปลอดภัย การปฐมพยาบาล การดับเพลิง การอพยพ การใช้เครื่องจักรและสารเคมีอย่างปลอดภัย รูปภาพ ประกาศนียบัตร รวมทั้งรายชื่อผู้เข้ารับการอบรม
- Boiler safety report and related document (if available) หนังสือรับรองความปลอดภัยหม้อน้ำ
- ป้ายระเบียบข้อบังคับเกี่ยวกับวิธีการปฏิบัติงานที่ต้องปลอดภัยในการใช้หม้อไอน้ำ (บริเวณห้องหม้อไอน้ำ) (ถ้ามี)
- Factory Inspection Report by government รายงานการตรวจและเยี่ยมชมโรงงานโดยองค์กรของรัฐ

Harassment & Abuse

- Prohibition of Harassment & Abuse:
- Is there a clear policy to prohibit H&A? Physical, Psychological or Verbal?
- Are there channels for workers to report H&A?
- Are there procedures to investigate cases and discipline those responsible?
- Discipline:
- Does factory employ progressive discipline?
- Are discipline systems fair? Transparent? Well documented?
- Are disciplines applied to managers & supervisors or only workers?
- Is training provided to managers & supervisors in discipline procedures?

Records & Documentation regarding Harassment & Abuse

- Are adequate records and documents maintained to show compliance?
- Workers voluntarily apply to work ? Documented?
- Punishments:
- No physical or psychological abuse, humiliation or punishment?
- No monetary fines for performance? Use of positive incentives instead of fines?
- No threats of termination or other intimidation.
- Security:
- What are contractual jobs, duties, responsibilities of Security guards?
- Are workers subject to search? Bag/ body search?
- Are all searches non-intrusive and gender-appropriate?
- Do Security use physical force? Inappropriate discipline to workers?

- Establish fair, clear & transparent policies on H&A and discipline. Violators of these or other company policies should receive swift, public discipline as per rules & procedures.
- Prohibit Harassment & Abuse:
- Adopt reasonable factory rules
- Post the factory rules on notice boards and in public areas around the factory.
- Grievance channels to report H&A direct to top Mgt.
- Provide supervisors with written guidelines.
- Discipline:
- Documented.
- Applied fairly & transparently
- Progressive discipline system, written & to all

4.8. Legally Binding Employment Relationship

FWF Labour Standard:

"Working relationships shall be legally binding, and all obligations to employees under labour or social security laws and regulations shall be respected."

4.8.1 Laws and Regulations

Termination of employment: Conditions for termination of employment are laid out in the Labour Protection Act, and a code governs unfair practices and unfair dismissals, which often are the result of the failure to follow correct legal procedures. If an employment contract does not specify any duration, either party can terminate the contract by giving notice at or before any time of payment, to have effect in the next pay period.

Workmen's compensation: The Compensation Act prescribes that an employer must provide the necessary compensation benefits for employees who suffer injury or illness or who die as a result or in the performance of their work at the rates prescribed by law.

Social security: The Social Security Act requires that all employers with 10 or more employees to withhold social security contributions from the monthly wages of each employee. The prescribed rates to the monthly wages are 4.5 percent. Note that the maximum monthly wage base on which the rates are applied must not exceed 15,000 baht. The employer is required to match the contribution from the employee⁵⁷.

Section 17 of the labour protection act 1998: An employment agreement shall terminate upon a date specified in an employment agreement for such termination without need for advance notice.

When an employment agreement does not have a date specified for its termination, the boss or the employee may terminate the employment agreement by giving advance notice in writing to the other party at or before the time for any wage payment, and this shall serve to terminate the employment agreement at the time of the next wage payment, but it is not necessary to give more than three months' advance notice of such termination.

When a boss terminates the employment agreement, if the boss does not state the reasons for such termination in the letter of termination of the employment agreement, the boss may not cite at a later date any of the reasons under Section 119 as the basis for termination.

In the matter of termination of an employment agreement under paragraph two, the boss may pay the wages in the amount which must be paid up to the time of termination of the agreement in accordance with the termination date given in the notice and let the employee leave the job at once, and such payment of the wages to the employee in accordance with this paragraph shall be held to be payment of the employment remuneration to the employee under Section 582 of the Civil and Commercial Code.

Section 20 of the labour protection act 1998: When an employee has not worked continu-

⁵⁷ http://www.boi.go.th/english/why/human_resources.asp

ously because his or her boss had the intention of not permitting the employee to have rights under this Act, regardless of the nature of the employee's duties and the intervals between the periods of service, all periods of service shall be included for the purpose of calculation of the rights entitlements of that employee.

Section 120. When a boss moves his place of business operations and locates it in another place, and this has an important effect on the normal way of life of the employee or his family, the boss must inform the employee not less than thirty days before the date of relocation of the place of business operations. In this regard, if the employee does not wish to go and work there, the employee shall have the right to give notice of termination of the employment agreement, and the employee shall be entitled to receive a special compensation payment of not less than fifty percent of the rate of compensation payment which the employee is entitled to receive under Section 118.

When the boss does not inform the employee of the relocation of the place of business operations in advance in accordance with paragraph one, the boss shall pay a special compensation payment in lieu of notice in an amount equal to thirty days' pay at the employee's most recent wage rate or equal to the wages for the last thirty days of work in respect of an employee who is paid a wage on the basis of piece work.

An employee is entitled to submit a petition to the Labour Welfare Committee for consideration within thirty days from the date on which the boss relocated his place of business operations as to whether or not it is a case where the boss must give advance notice or whether the employee is entitled to give notice of termination of the employment agreement with the right to receive the special compensation payment under paragraph one.

The ruling of the Labour Welfare Committee shall be final unless the boss or the employee appeals to the court against the ruling within thirty days from the date upon which the boss or the employee is informed of the ruling. When the boss is the party who takes the case to court, before the lawsuit can be filed the boss must pay an amount of money into court equivalent to the amount which must be paid to the employee who submitted the petition in accordance with paragraph three.

With regard to the giving of notice of termination of the employment agreement under this Section, the employee must exercise his or her right within thirty days from the date on which the boss relocated the place of business operations or from the date on which the ruling of the Labour Welfare Committee or the court judgement became final.

Section 121. When a boss wishes to terminate the employment of an employee because the boss is restructuring the work units, production, distribution or service processes, as a result of mechanization or changes in machinery or technology, thus making it necessary to reduce the number of employees, paragraph two of Section 17 shall not apply, and the boss shall inform the Labour Inspection Officer and the employees whose employment is to be terminated of the date of termination of employment, the reasons for termination of employment and the names of the employees not less than sixty days before the date of termination of employment.

When the boss does not inform in advance the employee whose employment is to be terminated or gives advance notice amounting to less than the time period prescribed in paragraph one, in addition to making the compensation payment under Section 118, the boss shall pay the employee a special compensation payment in lieu of notice in an amount equal to sixty working days' wages at his or her most recent wage rate, or an amount equivalent to his or her wages for the last sixty days of work in respect of an employee who is paid a wage on the basis of piece work.

When a special compensation payment is paid in lieu of notice under paragraph two, it shall be held that the boss has paid the employment monies in lieu of notice in accordance with the Civil and Commercial Code.

Section 122. When a boss terminates the employment of an employee in accordance with Section 121 and that employee has worked continuously for six years or more, the boss shall pay the employee a special compensation payment equivalent to not less than fifteen working days' wages at his or her most recent wage rate for each full year of service in addition to the compensation payment under Section 118, or not less than an amount equivalent to the

wages earned for the last fifteen days of work for each full year of service in respect of an employee paid wages on the basis of piece work. However, the total compensation under this Section must not be more than three hundred and sixty working days' wages at the employee's most recent wage rate, or the wages received for the last three hundred and sixty days' work in respect of an employee who is paid a wage on the basis of piece work.

For the purpose of calculating special compensation payments, when the period of service is less than one full year, if the fraction of the period of service is more than one hundred and eighty days, it shall be counted as one full year of service.

4.8.2 Compliance situation

The majority of problems discovered by Kenan Institute during FLA audits involved the employment contract. Despite the fact that the employer and employee had a verbal employment agreement, the employer often did not provide a copy of the employment contract to the employee⁵⁸.

4.8.3 Guidance for auditors

Mind:

- Even if workers leave voluntary they get severance pay as long as they leave with notice.

Documentation & Management system:

- Written policy on probation period, apprenticeship and Labour contract;
- Employment contract complying with laws and code standards;
- Records of timely payment to social security fund;
- Records of deductions from employees' wages.

⁵⁸ Analyst report of Labor standards audit in Thailand for the year of 2004 – 2006; based on Fair Labor Association (FLA) program, by Labor Standards Unit / Kenan Institute Asia

5. Inventory of Stakeholders-organisations

Department of labour protection and social welfare, Ministry of Labour
 Surin Chiravisit, dr gen
 Mitmaitri. RD, 79 soi 4, Vattananives Dindaeng, Bangkok 10400
 Tel 0 2245 7787 Fax: 0 2245 8229 Mobile: 0 9811 9955
 Labour Standards Certification Division
 Labour Standards Development Bureau; Department of Labour Protection and Welfare
 Ms. Nisa Noptepkangwan, director
 Mitmaitri Rd. Dindaeng, BKK 10400
 Tel: 022 354 1642
 Fax: 022 354 1653
 Mob: +66 99242756
 Devi19_1@labour.go.th / nisa_tls@hotmail.com
<http://www.labour.go.th/>
 Labour Standard Development Bureau
 Sub. Lt. Anont Indrasuksri, Director
 Tel: 022 45 4987
 Fax: 022 45 4986
 Mobile: 01934 8540
 anont@labour.go.th

The National Human Rights Commission of Thailand
 The National Human Rights Commission of Thailand (NHRC) was established under Section 199 and 200 of the 1997 Constitution as a mechanism to guarantee the respect for human rights as stipulated therein. The 11 full-time commissioners are elected by the Senate from a short list of 22 people with extensive human rights experience, gender balance and pluralistic background. The Commission's statutory term of office is 6 years, and each Commissioner serves for one term.

Contact:

The National Human Rights Commission of Thailand
 422 AMLO Building Phya Thai Road
 Pathum wan District
 Bangkok 10330
 Tel : (66) 2-2219-2980
 Fax : (66) 2-2219-2940
 Hotline : 1377
 E-mail : interhr@nhrc.or.th
<http://www.nhrc.or.th/aboutus.php>

Prof. Lae Dilokvidharat
 Associate professor/ director of labour and management development center
 Chulalongkorn University, Faculty of Economics
 Faculty of Economics, Chulalongkorn University, Phayathai Road, Bangkok 10330, Thailand
 Office: tel/fax: 66 2 218 6226, 218 6227
 Home: 66 2 538 9296, 932 0687
 Mobile: 0-1668-3791, 0-9117-2022
 022 186226
 Fax: 00 66 2 652 5388?

National Institute For The Improvement Of Working Conditions And Environment, Thailand (NICE)

Problems of working conditions and environment were given special attention in Thailand's Fifth National Economic and Social Development Plan (1982-1986). The plan called for the

protection of workers against occupational injuries and diseases and the provision of better working conditions and living standards of workers. It emphasised that these objectives should be pursued jointly with employment promotion and economic growth. Established, in 1983, with assistance from the United Nations Development Programme (UNDP) and the International Labour Organisation (ILO). Six Regional Institutes for Improvement of Working Conditions and Environment have been established, to extend the activities of NICE to the regions. The activities of NICE are focussed towards encouraging employers, particularly those of medium and small-scale enterprises in the industrial, agricultural and commercial sectors, to improve working conditions and the working environment at their respective

Contact:

22/3 Moo 2 Boromrajchornnee Road, Thalingchan, Bangkok 10170

Tel: (+66 2) 448-6498, 844-1727

Fax: (+66 2) 448-6509

chaiyc@mozart.inet.co.th

Mr. Nuttawat Montewan, director

ILO

ILO activities with unions seek to increase the visibility of women leadership and deal with a range of issues such as wages, social security (Unemployment Insurance Scheme), HIV/AIDS at work, collective bargaining, occupational safety and health, workers with disabilities, and strengthening union's participation in policy issues

Technical Cooperation:

-IPEC Combatting trafficking in the Greater Mekong Sub-region

-Assessing the situation of children in the production, sale and trafficking of drugs

-Expansion of employment opportunities for women

-Expansion of Social Security to the Informal Economy

-Application of Occupational Safety and Health Management System

-Occupational Safety and Health in Small and Medium Enterprises

-HIV/AIDS Prevention and Management Model Development

-ASIST (Labour-based construction technology)

(ILO country update: Thailand, June 2003).

Contact:

ILO's Asia-Pacific Regional Office

Mr Gek-Boo Ng

Regional Director

United Nations Building, 11th Floor

Rajdamnern Nok Avenue

P.O. Box 2-349

Bangkok 10200, Thailand

Tel: (66) 2288 2295, 2288 1234

Fax: (66) 2288 3056 (direct), 2288 3062

Email: bangkok@ilo.org

The Asian Workers **O**ccupational **H**ealth, **S**afety and **E**nvironment Institute (OHSEI)

Objectives:

1) improve the working conditions of workers in Asia;

2) promote environment-friendly and sustainable industry.

By assisting in developing practical, political and public occupational health and safety systems in the region, to provide workers and their representatives in Asia with more access to know-how, information and expertise on occupational safety, health and environment based on regional experience across Asia, including Thailand, Bangladesh, Mongolia, Viet Nam, Pakistan, and the Philippines.

Contact:

Ms. Chalida Srisahaburi

Mr. Ng Wei Kiang, Director
Sindhorn Building, 15th Floor, Tower III, 130-132 Wireless Road Patumwan,
Bangkok 10330
Tel:(662) 263-2330 Fax:(662) 650-9346
Email: ohse@ohseinstitute.org <http://www.ohseinstitute.org/index.shtml>

TLSC: Thai Labour Solidarity Working Committee.

TLSC was established in February 2001. It is a national coalition of 28 members, mostly from workers' federations, unions, and NGOs. Since it was started, the TLSC has been exploring the problem workers are facing from neo-liberal free trade policy. Pushing for flat national living wage of Baht 7000 a month.

SERC: State Enterprises Labour Relation Confederation

SERC was formed after the state enterprises union was allowed to perform again in 1998 after it was banned because of coup d'état in 1991. At present SERC has 44 member unions, with a total of 230,000 worker memberships. Since 1998 SERC has been actively protesting against privatization attempts by every government, especially regarding water, electricity, pharmaceuticals, railways, ports, tobacco, etc.

LCC: Labour Coordinating Center

Established in 1997 to be a platform for state enterprises workers and manufacturing workers to come to meet, to discuss the problems workers are facing and to design national action. LCC is a key organisation that in the beginning organized workers' independent May Day since 2000, challenging the official May Day on which the MoL has given nearly 2 million baht to labour congresses every year.

ACILS: American Center for International Labour Solidarity

Thailand office started in 1975 under the name AFFLI. In 1996 the name was changed to ACILS. Supported by the National Endowment for Democracy, USA.

Contact:

William Conklin, Field Representative
Kasemkij Bldg. Suite 402, 120 Silom Rd, Bangrak, Bangkok 10500, Tel: 662 632 7159
Fax: 662 234 5809, www.solidaritycenter.org
william@scthailand.org

FES: Friedrich Ebert Foundation

Thailand office started in 1970, promoting social democratic ideology of politics. Supported by German Federal Ministry of Economic Cooperation and Development.

Contact:

Thanapoom Tower, 23rd Floor,
1550 New Petchburi Road, Makkasan,
Ratchathewi, Bangkok 10400, Thailand
+66 2652 7178 ext.9
www.fes-thailand.org

TGLWFT: Textile, Garment and Leather Workers' Federation of Thailand.

It is one of the oldest private sector unions' federations. TGLWFT has 32 unions' members and over 20,000 memberships. The biggest unions members of TGLWF are Berla Groups [textile], Triumph Labour Union, WahThai Labour Union, for example.

Contact:

264/57-58 Suksawat 13 Road, Bangprakaew, Ratburana, Bangkok 10140

WEPT: The Council of Work and Environment Related Patients' Network of Thailand

And its 10 years' Operations for People's Lives Safe from Work and Pollution. It has started since 1993 Initiatives taken up by sick workers formation of a Byssinosis Patient Group

(BPG)

WEPT's activities in the first phase included the following:

1996 – 2003 Cooperation with the AP Launching Campaigns for Policy Negotiation Information on the work-related patients

Campaigns for Collecting Signatures for the Establishing the Institute for the PHS

Contact:

70/53 Moo 2, Tha Sai, Amphur Muang, Nonthaburi 11000

Tel: 02-951-2710, 02-951-3037 Fax: 951-3037

wept_somboon@hotmail.com

www.wept.org

CLIST: Centre for Labour Information Service and Training

CLIST was formed on 1st May 1991 to:

a) conduct training and other educational process to raise workers' awareness and provide knowledge on their rights,

b) promote formation of workers' organisations as the vehicles to fight for improvement of workers' status and working and living conditions

c) to campaign for amendment of the labour law to make them better protect workers' rights and interests, and provide assistance to workers whose rights are violated.

Contact:

166/23 Moo Baan Natthakarn 3, Klong Thanon, Saimai, Bangkok 10220, Thailand (near Amarawararam temple/what)

(66-2) 972 7035

clist@loxinfo.co.th

www.workers-voice.org

TLC: Thai Labour Campaign

Thai Labour Campaign started in 15 February 2000. The current focus of its organizations are;

Ongoing support in organising the activities of trade unions, including the mobile labour caravan with information on the campaign for the ratification of ILO 87/98, freedom of association and other workers' rights.

Promote rights of migrant workers in Thailand and Thais in Taiwan via research, networking, training, advocacy and campaigning.

Research on neo-liberalism including the promotion of special economic zones in Thailand, the proliferation of FTAs and ongoing WTO-related agreements such as MFA, to promote understanding of the 'tools' of current capitalism and how to co-organize against it.

Support the strengthening of newly formed trade unions, particularly the Thai Food Workers Federation.

Focus on gender and trade and strengthening women labour leaders' participation in the movement via TOT, publications, and education.

Contact:

P.O. Box 219, Lad Prao Post Office

Bangkok 10310

+66 2 933-0585

lek@thailabour.org

<http://www.thailabour.org/index.html>

ECOT- Employers Confederation of Thailand

Asean Confederation of Employers,

1055/3 Sri Chareon Square,

Srinakarin Road, Bangna,

BANGKOK 10260

tel: (00 662) 398 4880 / 2

fax: (00 662) 398 4879

ecot@bkk.loxinfo.co.th

Thai Garment Manufacturers Association
127/36 Panjathani Tower 31 Fl., Nonsee Road,
Chongnonsee, Yannawa, Bangkok 10120, Thailand
Tel. 66(0) 2681-2222 Fax. 66(0) 2681-0231-2
E-mail : info@thaigarment.org
Web site : www.thaigarment.org



Friends of Women Foundation

Friends of Women Foundation (FOW) is a non-governmental organization established in 1980.

FOW disseminates information to both the public and governmental sectors in order to push for new policy formation and genuine change on issues concerning the protection of women's rights and the enhancement of women's quality of life.

Contact:

286/61-62 Ratchadapisek Road Soi 44, Ladyao, Jatuchak, Bangkok 10900
+66 2 513 1001

<http://www.friendsofwomen.net/english/english.htm>

6. Auditing

Kenan Institute

KIAsia is a non governmental institution concerned with both ensuring that labor regulations are met and that Thai exports remain competitive. Kenan Institute Asia focuses on the garment manufacturers and exporters in seeking methods to protect the Thai export trade market through the protection of human rights in the workplace and increasing the quality of working conditions.

Labor Standard Unit (LS) was initiated in June 2000 to educate and train the private and public sector on the application of labor standards and code of conduct. LS have been accredited by Fair Labor Association (FLA) since year 2003; working as an independent monitor for FLA program in a Thailand, Malaysia and Cambodia; besides, we also assisted on Social compliance audit for several big buyer such as Nike, ASICS, etc. All staffs have been experienced and back grounded in audit the labour standards for over 3-4 years”.

Mr. Suriya Yawichian

Deputy manager of Labour Advisory Services, Kenan Institute Asia/ Labor Standards Unit Better Business Practices Division

suriyay@kiasia.org - website www.kiasia.org - tel (office) 02-2295920ext. 238 (mobile) 01-8179474 - Fax: + 662-229-5928

Global Standards

Global Standards consulting group specializes in Corporate Social Responsibility (CSR) issues including international labour, environmental and safety standards for export manufacturers in Asia. Headquartered in Viet Nam, with regional expertise and reach, Global Standards operates with local teams in China , Thailand and Korea. Global Standards conducts consulting, training and monitoring services to: Assist international firms to implement Codes of Conduct and Social Responsibility programs through training, consulting and monitoring of manufacturers, Help local manufacturers and suppliers to understand and comply with international standards through training and consulting aimed at improving management and documentation systems and attaining compliance goals.

Contact:

Alex Kaufman, Director of Operations (Asia)

alex@global-standards.com

Mobile: (66)1816-1248

7. Annex

List of Required Documents under the FWF monitoring Program, “For Thailand only”, KIASIA-Kenan Institute Asia, “Partnering for Sustainable Development”

Human resource, Production and Accounting Documents

1. Company Policy manuals/ Factory Rule and Regulation (including written disciplinary practices and immediate termination rules) คู่มือ,กฎระเบียบ และนโยบายของบริษัท
2. Production plan for the models produced on the audit date must comprise of แผนการผลิตอันประกอบด้วย
 - Name/type of model ชื่อและประเภทของรุ่นที่ผลิต
 - Proportion of production quantity of the model to total production quantity in the month of audit สัดส่วนการผลิตของแต่ละรุ่นต่อเดือน
 - Total quantity of production of all the models in the month of audit จำนวนการผลิตทั้งหมด
 - Production quantity of the model according to the plan (daily and monthly) in the month of audit จำนวนการผลิตแต่ละรุ่นต่อวันและต่อเดือน
 - Number of workers in each production procedure of that model จำนวนคนงานที่ใช้ในการผลิตแต่ละขั้นตอน
 - Second Around Minute (SAM) เวลาที่ใช้ในกรผลิตแต่ละขั้นตอน
3. Production process กระบวนการผลิต
4. Job applications แบบฟอร์มใบสมัครงาน
5. Employment contracts สัญญาการทำงาน
6. Employee manuals/Employee handbook / Term and conditions of employment คู่มือพนักงาน
7. Permits for young workers ใบอนุญาตกรณีที่ใช้แรงงานเด็ก
8. Proof of age documentation : Birth Certificate or Copy of Personal ID หลักฐานที่พิสูจน์อายุพนักงาน
9. Employee profile: Resume แฟ้มประวัติพนักงาน
10. Timecard/ Working Time Recording Documents of employee บัตรลงเวลาการทำงาน
11. Payroll record บันทึกการจ่ายค่าจ้าง
12. Payment slip สลิปเงินเดือน
13. Employee disciplinary records บันทึกการลงโทษทางวินัย
14. Monthly production quantity in the last 12 months ปริมาณการผลิตในช่วง 12 เดือนสุดท้าย
15. Document related to worker association/union เอกสารเกี่ยวกับสหภาพแรงงาน/สมาคมคนงาน
16. Notice to announce Election of Committee Member on Employees’ Side (Form L.R. 17) ประกาศการเลือกตั้งคณะกรรมการฝ่ายลูกจ้าง
17. Notice Re: Election of Committee Members o Employees’ Side (Form L.R 18) ประกาศการเลือกตั้งคณะกรรมการฝ่ายนายจ้าง
18. Application Form for Election As Committee Member on Employees’ Side (Form L.R. 19) แบบฟอร์มการรับสมัครผู้แทนเพื่อรับการเลือกตั้ง
19. Notification of Result of Election of Committee Members on Employees’ Side (Form L.R. 20) บันทึกผลการเลือกตั้ง
20. Copy of the last advertisement for workers at the facility: Job Announcement สำเนาการรับสมัครงาน
21. Procedure on promoting workers / worker training / worker benefit.] ขั้นตอนการเลื่อนตำแหน่งพนักงาน
22. Physical examination of worker prior to and during employment. รายละเอียดการตรวจเช็คร่างกายพนักงานก่อนเข้าทำงาน
23. Notification of company’s holiday in a year ประกาศวันหยุดประจำปีของบริษัทฯ
24. Procedure on promoting workers / worker training / worker benefit.] ขั้นตอนการเลื่อนตำแหน่งพนักงาน
25. Sub-contractor, Janitor and factory guard’ s contract agreement สัญญาว่าจ้างยามรักษาการณ์ แม่บ้าน และผู้รับเหมาช่าง
26. Number of exact workers, supervisor and officer staff(male and female) สรุปลยอดพนักงานแยกชายหญิง และแยกหัวหน้างาน คนงาน
27. Wage calculation Guidance document ตัวอย่างการคิดค่าจ้าง
28. OT record and OT voluntary record ใบแจ้งการทำงาน OT และเอกสารยินยอมการทำงาน OT ของคนงาน
29. Wage/benefit increasing rule กฎการขึ้นค่าจ้าง
30. Broken needle record (6 months) รายงานเข็มหัก ย้อนหลัง 6 เดือน
31. Trainee and temporary employee contract สัญญาจ้างพนักงานชั่วคราว
32. Worker complaint record รายงานคำร้องเรียนของลูกจ้าง
33. Employee-employer activity file แฟ้มกิจกรรมระหว่างนายจ้างลูกจ้าง

34. Leave report รายงานการขาดลามาสาย
 35. Social security receipt(3 months) ใบเสร็จการจ่ายค่าประกันสังคม ย้อนหลัง 3 เดือน

Health and Safety Documents

4. Factory master plan or site plan: A plan showing the facility boundary and location of each building inside the boundary แผนผังที่ตั้งและตำแหน่งอาคาร
5. Interior floor plan with the location of exit, fire fighting equipment (alarm, emergency light, hose, hydrant, fire cabinet, fire extinguisher, smoke/heat detector and sprinkle) toilet, emergency shower, first aid box and water dispenser station. แผนผังโรงงานที่แสดงตำแหน่งทางหนีไฟ จุดติดตั้งอุปกรณ์ดับเพลิง ห้องน้ำ และที่บริการน้ำดื่ม
6. Floor area and factory area พื้นที่โรงงาน และพื้นที่อาคารผลิต แต่ละชั้น
7. Number of fire extinguisher, drinking water service station and toilet จำนวนถังดับเพลิง ห้องน้ำแยกชายหญิง และจุดบริการน้ำดื่ม ทั้งหมดในโรงงาน
8. Record / document required by local law and FWF
 - Factory permit required by the local law ใบอนุญาตต่างๆ ที่ต้องจัดให้มีตามกฎหมาย
 - For example:
 - Factory Operation Permit ใบอนุญาตประกอบกิจการโรงงาน
 - Forklift operation permit ใบประกาศนียบัตร คนขับ forklift
 - Boiler operation permit ใบประกาศนียบัตรผู้ควบคุมหม้อไอน้ำ
 - Boiler Safety Permit ใบอนุญาตหม้อไอน้ำ ใบรายงานการตรวจความปลอดภัยของหม้อไอน้ำ
 - Business License ใบทะเบียนการค้า
 - Waste discharging Permit ใบอนุญาตระบายของเสีย (ถ้ามี)
 - Permit of treated wastewater discharging into public waterway ใบอนุญาตให้ระบายน้ำทิ้งลงทางน้ำสาธารณะ
 - Wastewater Treatment Permit/waste water testing report ใบอนุญาตระบบบำบัดน้ำเสีย
 - Document of solid waste management (such as contract with the local authority for handling of solid waste management) เอกสารที่เกี่ยวข้องกับการจัดการขยะต่างๆ เช่น สัญญาการจ้างขนขยะกับทางราชการ ใบเสร็จ Safety Electrical System Certification/Permit รายงานการตรวจระบบไฟฟ้าของโรงงาน โดยกรมโรงงานอุตสาหกรรม
 - Elevator Safety Inspection Record/Permit ใบตรวจสอบระบบลิฟท์
 - Permit for Deep well use (if available) ใบอนุญาตขุดเจาะและใช้น้ำบาดาล
 - Permit for operation of health harm related-manufacturing ใบอนุญาตประกอบกิจการที่เป็นอันตรายต่อสุขภาพ
 - Certification of Food Hygiene for food shop ประกาศนียบัตรรับความสะอาดของอาคารและการปรุงอาหารของร้านค้า ในโรงอาหาร
 - Employee Safety Manual คู่มือความปลอดภัย
 - Written health and safety policy นโยบายด้านความปลอดภัย
 - List of chemicals stored in the facility and amount รายการสารเคมีที่ใช้และปริมาณการครอบครอง
 - Statement for occupied hazardous chemical in place of operation (MSDS), (optional, if the chemical exists in the workplace) ข้อมูลความปลอดภัยสารเคมีอันตราย
 - Report on safety chemical and chemical risk assessment in workplace (optional, if the chemical exists in the workplace) แบบรายงานความปลอดภัยและการประเมินการก่ออันตรายของสารเคมีในสถานประกอบการ (ถ้ามี)
 - Report on chemical testing the working atmosphere แบบรายงานการตรวจวัดปริมาณความเข้มข้นของสารเคมีอันตรายในบรรยากาศบริเวณสถานที่ทำงานและสถานที่เก็บสารเคมีอันตราย(สอ. 3)
 - Report on environmental workplace evaluation such as air testing, noise, lighting and chemical testing รายงานการตรวจวัดทางสุขศาสตร์อุตสาหกรรมในสถานประกอบการ
 - Annual health examination report for chemical operator รายงานการตรวจสุขภาพประจำปีของพนักงานที่ทำงานกับสารเคมี
 - Accident investigation report/accident log (by case individually) รายงานการสอบสวนอุบัติเหตุ
 - Notification name of professional safety office แบบแจ้งชื่อเจ้าหน้าที่ความปลอดภัย
 - Report on work activities and performance of safety officer รายงานผลการดำเนินงานของเจ้าหน้าที่ความปลอดภัยในการทำงาน
 - Safety standard Operation Procedure for existing task of operation คู่มือมาตรฐานความปลอดภัยในการทำงาน
 - Notification of the name of member of safety committee and รายชื่อคณะกรรมการความปลอดภัย
 - monthly minute of meeting of OSHE committee รายงานการประชุมประจำเดือนของคณะกรรมการความปลอดภัย
 - Emergency plan and evacuation plan แผนฉุกเฉินเพื่อการอพยพและแผนการอพยพ
 - Fire drill record รายงานการซ้อมดับเพลิงและการอพยพ
 - Inspection record for all fire protection equipment in workplace

บันทึกการตรวจสอบอุปกรณ์ป้องกันเพลิงทั้งหมด (sprinkle, heat-smoke detector, fire extinguisher, alarm, hose, emergency light)

- List of first aid supplies and pharmaceutical supplies in the clinic and health record (OPD) รายการเวชภัณฑ์ในโรงพยาบาลและรายงานสุขภาพผู้ป่วย
- Record of used medicine and pharmaceutical supply รายการเบิกจ่ายยาและเวชภัณฑ์
- Attendant record of medical personal in the clinic บันทึกการประจำการของเจ้าหน้าที่พยาบาล
- Training material, list of attendant, certification and photo relating to OSH, first aid, fire fighting & evacuation, chemical safety and machinery เอกสารการฝึกอบรมในเรื่องความปลอดภัย การปฐมพยาบาล การดับเพลิง การอพยพ การใช้เครื่องจักรและสารเคมีอย่างปลอดภัย รูปภาพ ประกาศนียบัตร รวมทั้งรายชื่อผู้เข้ารับการอบรม
- Boiler safety report and related document (if available) หนังสือรับรองความปลอดภัยหม้อน้ำ
- ป้ายระเบียบข้อบังคับเกี่ยวกับวิธีการปฏิบัติงานที่ถูกต้องปลอดภัยในการใช้หม้อไอน้ำ (บริเวณห้องหม้อไอน้ำ) (ถ้ามี)
- Factory Inspection Report by government รายงานการตรวจและเยี่ยมชมโรงงานโดยองค์กรของรัฐ

¹ Supatch Supachalasai, PhD., The Possibilities of Export and the Impact of the ASEAN Free Trade Areas (Textile Industry), Thai Development Research Institute, November 1996, p 1

² Ibid, p 2

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⁴ Thai Textile Institute, The Project for Developing the Master Plan for Industries: the Textile and Clothing, 2002, Page vi

⁵ The Industry Promotion Department, Ministry of Industry

⁶ Department of Industry Economic, the 2002 Industry Economic Summary and the trend for 2003, Ministry of Commerce, January 2003.

⁷ <http://www.thaitextile.org/eng/aboutus.asp>

⁸ Bangkok Fashion City <http://www.bangkokfashioncity.com/en/about/aboutbfc1.aspx>

⁹ Human Right, quality assurance, productivity, merchandising and product development, electronic data interchange and quick responses standard, TTIS, page 40

¹⁰ quick response standard for Thai garment industry, TTIS, page 35

¹¹ Manager Newspaper, 2 August, 2002

¹² Junya Yimprasert, Labour Focus, February 2003

¹³ http://www.thailabourstandard.org/Cmslite/upload/file/109_2_1.pdf

¹⁴ Brainstorming on "Masterplan for each industry; textile and garment." Thailand Textile Institute, 2003

¹⁵ Mass Communication of Thailand, 25 December 2002.

¹⁶ Source: http://nationmultimedia.com/2006/11/05/opinion/opinion_30018094.php

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¹⁸ Intertransport Logistics, 26/11/45

¹⁹ The Nation, SPECIAL ECONOMIC ZONES: Monks and NGOs say no, February 06, 2005

²⁰ Trade, Strategy Talk, Cut & Sew, November – December 2001, p. 21

²¹ Supatch Supachalasai, PhD., The Possibilities of Export and the Impact of the ASEAN Free Trade Areas (Textile Industry), Thai Development Research Institute, November 1996, p 2

²² Cut & Sew, Nov. – Dec. 2000

²³ The world first and second largest footwear producers, both companies are Taiwanese.

²⁴ Pan Asia Footwear Public Company annual report 2002, p 1

²⁵ Cut & Sew, Sept. – Oct. 2001, p 16

²⁶ Cut & Sew, Nov. – Dec. 2000, p 20

²⁷ Wiboon Taungsitsombat, 50 Years under the Monarchy Patronize

²⁸ www.nanyangtextile.com

²⁹ Cut & Sew, Jan. – Feb. 2001, p. 21

³⁰ Thai Labour Campaign survey about companies producing for US Universities, 2002

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- ³¹ Former President of the Thai Garment Manufacturers Association, 1996-2000
- ³² Former President of the Thai Garment Manufacturers Association 1986 -1996
- ³³ See, Thai Textile Federation, 50 years Thai Textile under the Monarchy patronize, 2540
- ³⁴ [http:// www.thaitextile.org/ttnews.asp?whichpage=2&ttnews_id=1792](http://www.thaitextile.org/ttnews.asp?whichpage=2&ttnews_id=1792), 10 May 2003
- ³⁵ Junya Yimprasert & Thai Labour Campaign, "Supply Chain in Thai Garment Industry: Impact on women workers!", for Oxfam GB, August 30, 2003
- ³⁶ The Industry Promotion Department, Ministry of Industry
- ³⁷ Thai Textile Institute, The Project for Developing the Master Plan for Industries: the Textile and Clothing, 2002, Page vi
- ³⁸ Bangkok Business News, 17 February 2005