



WORKER RIGHTS CONSORTIUM

**WRC FACTORYASSESSMENT
LTU APPAREL (THAILAND)**

**FINDINGS, RECOMMENDATIONS AND STATUS REPORT
August 4, 2010**

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I. Introduction

This report discusses the Worker Rights Consortium's findings, recommendations and remedial efforts at LTU Apparel, a garment factory in Nakorn Pathom, Thailand.

LTU Apparel is a small factory that shares its premises and management with another clothing manufacturer, British Thai Synthetic Textile ("British Thai"). Information received by the WRC from the Licensing Resource Group, a licensing agent for many colleges and universities, indicated that from 2001 to 2009 British Thai had been disclosed as a supplier of university logo apparel to collegiate licensee Gear for Sport, Inc. However, Gear for Sport subsequently informed the WRC that it ceased doing business with British Thai in 2001.

A third factory located in Samuth Sakhon, which shares ownership with LTU Apparel and British Thai, Yao Yat Chuen Ltd., produces non-collegiate apparel for Adidas. LTU Apparel produces non-collegiate garments for other overseas buyers, including a number of European, Middle Eastern and U.S. brands of wedding dresses such as David's Bridal, Herve Mariage, Radiosa, Brinkman, Raheed and Amsale.

At the time of the WRC's investigation, LTU Apparel had twenty-three employees who worked alongside approximately 150 British Thai Synthetic employees. As the two companies share production facilities, management, and have employees working alongside each other, this report does not distinguish between British Thai and LTU Apparel and refers to both companies as "LTU Apparel."

The WRC conducted its assessment of LTU Apparel in response to complaints received in May 2008 from employees alleging violations of Thai labor law, and buyer and university codes of conduct, primarily concerning respect for freedom of association. Our assessment was conducted during July and August 2008, with follow up monitoring in November 2008, May 2009 and November 2009. This report provides a summary of the WRC's findings and recommendations, the factory management's response to the findings, and the status of our remedial efforts.

The WRC is pleased to report that its assessment has resulted in significant improvements in working conditions at LTU Apparel. These developments include, most importantly, the reinstatement of employees unlawfully dismissed in retaliation for exercising their associational rights.

Subsequent to the reinstatement of these workers, there have been no further reports of such violations at LTU Apparel and the company has taken a more constructive approach to its labour relations. As discussed in this report, however, the WRC continues to be concerned regarding the sustainability of these improvements.

II. Methodology

The WRC's findings and recommendations with respect to LTU Apparel are based on the following sources:

- Interviews with LTU Apparel management, including the factory's production advisor and its code of conduct compliance advisor;
- Individual interviews with fifteen employees of LTU Apparel;
- A review of company documents, including LTU Apparel's productivity measurement data;
- An onsite factory inspection.

III. Findings

A. Background

In the spring of 2008, LTU Apparel dismissed nine workers who were members of both a committee and a subcommittee of the employees' union, the LTU Apparels Labour Union ("the union"). Following these dismissals, workers contacted the WRC alleging the violations discussed below.

B. Violations Alleged

Based on the worker complaints and initial research by the WRC, the following allegations were identified for review:

- **Freedom of Association:** That the company dismissed seven union officers and two union subcommittee members in retaliation for exercising associational rights and threatened to dismiss other employees who sought to join the union.
- **Collective Bargaining:** That the company attempted to reduce workers' benefits, including rice supplied for meals and transportation, without negotiating with their union representatives as required by Thai law.

C. Violations Found

1. Freedom of Association

The WRC found substantial evidence that the management of LTU Apparel engaged in acts of interference, intimidation and retaliation against workers for exercising their right to freedom of association. These acts included retaliatory dismissals of union leaders and subcommittee members, as well as threats of dismissal made against other employees if they joined the union.

The WRC found that seven union officers and two union subcommittee officers were dismissed on April 26, 2008. The WRC determined that these employees were terminated in retaliation for having exercised associational rights and for voicing concerns regarding workplace conditions on behalf of their colleagues, and that this employer conduct violated Thai law and applicable codes of conduct.¹ The evidentiary basis for these findings is discussed in detail below.

¹ See, Thailand Labor Relations Act (1975) ("Labor Relations Act"), § 121; *also, e.g.*, Gear for Sport, Inc. *Code of Conduct* ("Freedom of Association: We recognize the rights of all workers to exercise

In early November 2007, LTU Apparel's management announced to its employees that it needed to make some changes in its operations in order to increase efficiency. Specifically, the management indicated that employees of LTU Apparel would work together with British Thai Synthetic Textile workers. The management subsequently explained to the WRC that these changes were necessary because certain orders from its buyers had changed in a manner which required the company to change its production methods.

The majority of union leaders at LTU Apparel were assigned to a single production line called PS 7. However, the skills required for this line did not match the skills of these employees, and management did not provide personnel to supervise work at this line.

The union raised concerns about this move with the management and through the Nakhorn Pathom office of the Thai Department of Labour Welfare and Protection, and a tripartite meeting was set up on November 19, 2007. At this meeting, LTU Apparel's management asked for two months time to address the situation and acceded to the union's request that it assign a line leader to supervise the work of the PS 7 line.

While LTU Apparel management assigned a line leader to PS7, the line leader did not supervise the production. Instead the line leader only informed the workers on which orders they should work. The lack of adequate supervision meant that the workers on the PS 7 line often had to improvise their work arrangements without any assistance from the management. They were also frequently assigned to assist other lines with those lines' production quotas. On January 27, 2008, the union submitted a request to the management, calling for a meeting to clarify the work duties of employees assigned to the PS 7 line in response to these concerns. The management did not accede to this request.

On February 15, 2008, the management told the workers on the PS 7 line that as they were not reaching their production targets on a consistent basis and that the management would develop procedures to increase production on the PS 7 line. At this meeting, the management explained that its aim was to increase the productivity from the current level of less than 40% of its target to 60% of the desired level during the following month. According to workers, the management informed the workers, thereafter, on March 15, 2008, that they were working well and that their recent production levels were significantly closer to their targets.

In early April 2008, rumours circulated that British Thai would reduce workers' benefits (these rumours are discussed in detail later in this report) which led to many workers approaching the union for advice on this subject. From April 7 to 21, 2008, many former LTU Apparel workers, who previously had left the union because they had been transferred to work for British Thai, reapplied for union membership. According to workers, however, several line leaders told employees that anyone who applied for union membership would be dismissed by the company. One line leader threatened a union officer with dismissal for distributing union membership forms to her co-workers.

their lawful rights to freedom of association and collective bargaining and forbid retaliation against any worker engaged in an organizing activity.”).

On April 25, 2008 at 3.15 p.m., the management called all eight of the workers who were working on the PS 7 line to a meeting room at the facility known as “Meeting Room II.”² The management then instructed two of the eight employees to go to another meeting room, “Meeting Room I,” where two security guards were stationed. Upon seeing the security guards, the two workers notified the other six employees of their presence. The eight workers then decided to ask the management to meet jointly with all of them.

All eight workers were then summoned to Meeting Room I, where factory managers informed them that the workers were being dismissed and the PS 7 line was being shut down because they had been unable to reach their production targets and the company was unable to shoulder the costs associated with this. When the workers asked to see their termination notices, the management showed these documents to them and told the workers to sign them. The workers refused and left the meeting room to go back to work as usual.

Next, factory managers, together with two line leaders and five security guards, followed the workers to the PS 7 line and ordered them to stop working because the company had dismissed them. In response, the workers told the managers that they refused to leave until the company announced the dismissals of the nine workers. The managers refused, however, stating that no law mandated that the company announce the dismissals. The workers continued to work until the end of the day, when, at 6 p.m., the company announced the dismissals of the seven union officers and the two subcommittee officers, effective April 26, 2008

When the WRC asked LTU Apparel’s management the reason for firing the union leaders, the management replied that work efficiency had been their sole criterion for deciding whom to dismiss and they had not targeted the union leaders for dismissals. The management further claimed that if it wanted to target the union leaders, it could have done so prior to the change of production in November 2007, as all the union leaders also had worked on the same production line at that time.

Although the company supplied production efficiency data to the WRC in support of its claim that the union leaders had not been targeted, the WRC found that this data contained several important omissions. First, the data supplied compared the efficiency of the PS 7 line to the combined average efficiency of the factory’s other six lines. The absence of any individual assessment of the other lines indicated that the measurement of line PS 7 had not been conducted as part of an overall evaluation of the factory’s operations.

So while this data showed that the PS 7 line efficient was *on average* less efficient than the factory’s other lines, it did not prove, by any means, that the PS 7 line was the very least efficient line. Thus, the evidence on which the management claimed to have based its decision was incomplete.

Second, the PS 7 line was not given a line leader to feed the work to the line, despite the agreement between the workers and the management that a line leader would be provided.

² The only other worker employed on the PS 7 line was not at work on April 25, 2008.

Third, while the other lines assisted each other with problems in production, the PS 7 line did not receive any such assistance, but instead was asked to help the other lines. This suggests that the management was not genuinely interested in boosting production from the PS 7 line.

Fourth, after informing the workers on the PS 7 line on March 15, 2008 that they had improved their efficiency and were making good progress towards reaching their targets, the management did not make, or involve workers in, any efforts to achieve further improvement.

In order to determine whether there were any significant differences in productivity among each of individual production lines, the WRC requested to review the daily raw production data supplied by each line for March 2008. The data showed that while the PS 7 line, according to management's data, did have the lowest productivity, four other lines, PS 1, PS 2, PS 5 and PS 6, also had productivity levels which were lower than the target figure of 60%.³ Moreover, the WRC found that the management had inflated the efficiency for the other lines by including overtime, and reduced the efficiency figure for the PS 7 line by omitting two of its most productive days during the month, thus making the other lines appear more productive than PS 7 than actually was the case.

The WRC concluded that the evidence provided by the management in support of its claim that the shutdown of the PS 7 line was due to poor productivity did not undermine our finding that the dismissals of the line's workers was, in fact, retaliatory in nature. While the management did show that the PS 7 line had efficiency problems, there was an evident discrepancy in the treatment of this line compared to the other six production lines.

The WRC failed to find significant differences between the productivity of the PS 7 line and that of the other lines. According to the company's own data, five out of the factory's seven production lines had low productivity scores, therefore, if improving efficiency had been a genuine concern, each of these lines would have been measured individually and taken action to improve the performance of these other lines as well. Finally, the management failed to follow up on the workers' own request to seek clarification of their work duties and did not provide any meaningful support to improve the efficiency of line PS 7 prior to the dismissals.

By contrast, the targeting for shutdown of a production line that included the majority of the union's leadership, the timing of these dismissals just weeks after the union had started campaigning against unilateral changes of the employment conditions and recruiting new members, and the management's urgency in executing the shutdown, all indicated the presence of anti-union animus. This hostility was further confirmed by statements reportedly made by members of lower management anti-union.

Taking all these circumstances into account, the WRC concluded that the terminations were discriminatory and violated both Thai law and buyer codes of conduct related to

³ The productivity in March 2008 calculated based on the data supplied by LTU Apparel was 52% (PS1), 49% (PS2), 47% (PS6), 45% (PS5) and 41% (PS7). The factory's other two lines, PS3 and PS4, both had efficiency levels over 80%. It should be noted that when using data supplied by a worker from the PS7 line who had kept careful daily records of finished goods produced by that line, the productivity figure for the PS7 line was calculated by the WRC to be 58%.

freedom of association⁴. The conclusion of the WRC was subsequent confirmed by the Thai Labor Relations Committee, which issued a verdict on August 27, 2008 reaching the same conclusion – that the dismissals constituted a violation of workers’ legal right to freedom of association.⁵

2. Collective Bargaining

The WRC found that contrary to Thai law and applicable codes of conduct, LTU Apparel management attempted to change workers’ benefits without negotiating with the union representing its workers.

As noted previously, in early April 2008, workers heard rumours that the management planned reductions in workers’ benefits, including ceasing its practice of providing cooked rice at their three daily meals, instead giving workers a daily food allowance of five Thai Baht (US\$ 0.15).

When questioned by the WRC about the planned change in benefits, LTU Apparel management confirmed that it had discussed the proposal with the factory’s “Joint Consultation Committee” (“JCC”), a management-appointed body. Under Thai labor law, however, if an employer wishes to change its terms of employment, it is required to negotiate with its employees’ chosen representatives,⁶ which in this case was the LTU Apparel employees’ union

Although the factory management ultimately decided not to pursue the proposal due to workers’ opposition, its attempt to avoid dealing with the union on this issue constituted a violation of both Thai law and applicable codes of conduct.

D. WRC Recommendations

The WRC recommended that LTU Apparel reinstate the seven union officers and two subcommittee officers to their former positions with full back pay and other legally mandated benefits. The WRC stressed the importance of conducting these reinstatements immediately, before further harm to the rights of employees to form a union without fear of dismissal or reprisal occurred.

The WRC also recommended that when seeking to change working conditions, LTU Apparel should first negotiate with the union representing its workers.

Management Response

To its credit, LTU Apparel’s management immediately took corrective action after receiving the findings of the WRC. The company agreed to reinstate the nine union activists with full payment of back wages. The company reinstated the nine workers on September 16, 2008. According to agreement between the management and the dismissed workers, the parties would discuss the workers’ future positions at the company to ensure that they would be assigned to jobs they had the skills to perform. Workers have testified

⁴ See Labor Relation Act, §121

⁵ See, Labor Relations Committee, verdict 49-57/2551 (Aug. 25, 2008).

⁶ See, Labor Relations Act, § 13.

that, since the reinstatement of the union leaders on September 16, 2008, labour relations at LTU Apparel have improved somewhat and the union leadership has not faced any further discrimination.

The management also committed to follow legally established procedures for involving the union when seeking to change working conditions. Based on follow up interviews conducted in November 2009 and in June 2010, there have been no further attempts by the management to unilaterally change working conditions at the factory.

Further developments

While the situation at LTU Apparel has improved significantly, labor-management relations at the factory are still a work in progress. The company has delegated the communication with the workers' union to an outside human resources consultant. While the consultant appears committed to improving labor relations at the factory, he only visits the factory once every two weeks.

When employees or the union raises workplace issues with the factory management, the management refuses to discuss these issues and, instead, refers them to its consultant. Two recent events illustrate the unnecessary delay in addressing potentially serious workplace problems that is caused by the management's reliance on a part-time consultant to handle its labor relations. While both issues ultimately were resolved, they underscore the point that direct labor-management communications are vital for resolving future issues in a timely fashion.

Partial Obstruction of Exits

In early 2009 LTU Apparel began to partially block the factory building's exit doors during the period when workers were entering and exiting the factory, making it impossible for more than one worker to pass through at a time. As this created a potential fire safety hazard, the union negotiated with the management for the practice to be discontinued, and finally in late July 2009, the doors were unblocked.

Failure to provide clean drinking water

According to interviews with LTU Apparel workers, drinking water inside the factory itself is unclean, and often contains sediments or even at times small worms. This became a problem after the company ceased its prior practice of supplying workers in the factory with drinking water from the employees' dormitory, where it has installed a filtration system.

While the management has installed another water filter inside the factory itself, however, the device does not appear to function properly. Although a July 2009 water quality check by the Technological Institute found that the water was sufficiently clean, workers still reported finding worms in the water. After workers repeatedly attempted to bring this problem to the management's attention, in October 2009, LTU Apparel finally resolved it by having the factory supplied with clean water from the local municipal water services.

Further Recommendations:

The WRC recommends that LTU Apparel engage directly with its employees' union to address workplace issues in a timely fashion.