



WORKER RIGHTS CONSORTIUM

**WORKER RIGHTS CONSORTIUM ASSESSMENT
re Far East Garment Textile and First Apparel (Thailand)**

**FINDINGS, RECOMMENDATIONS, AND STATUS REPORT
February 8, 2005**

5 Thomas Circle NW Fifth Floor Washington, DC 20005

(202) 387-4884 Fax: (202) 387-3292

wrc@workersrights.org www.workersrights.org

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**REPORT OF WORKER RIGHTS CONSORTIUM ASSESSMENT AT
FAR EAST GARMENT TEXTILE CO. LTD. AND FIRST APPAREL CO. LTD. (THAILAND)**

Introduction

This is the first of two reports regarding a compliance assessment undertaken by the Worker Rights Consortium (WRC) of three closely related factories: Far East Garment Textile and Fair Textile, located in Bangkok, Thailand, and First Apparel, located in Ayuthaya, Thailand. The factories employ 110, 700, and 700 workers respectively. Fair Textile is a manufacturer of textile materials. Far East Garment Textile (also referred to herein as “Far East”) and First Apparel are apparel assembly facilities.

The assessment was initiated in response to multiple complaints made by employees of these facilities, primarily concerning the areas of freedom of association and occupational health and safety. The investigation was carried out by a WRC Assessment Team comprised of experts in Thai labor and employment law and occupational health and safety during October and November of 2004. As indicated below, this investigation included extensive interviews with employees and managers, an occupational health and safety survey, a review of relevant documents, and discussions with several pertinent buyers.

While the three factories are not subsidiaries of one conglomerate, the WRC chose to include the three facilities together in one joint assessment in light of the close business relationship among the facilities, common primary stockholders, overlapping management in some areas, shared materials and processing, and overlapping compliance concerns. The WRC felt that a joint assessment approach was necessary to issue relevant and encompassing recommendations. This first report, however, covers only the WRC’s findings and recommendations with respect to Far East and First Apparel. A separate report, to be issued shortly, will focus on Fair Textile.

The WRC can report that this joint assessment has thus far resulted in substantial improvements in working conditions at both Far East and First Apparel. The WRC credits the management of these facilities for working constructively with the WRC and several key buyers – the Gap Inc. and Levi Strauss & Co. – to realize these improvements in an unusually short time frame.

Despite the improvements, several issues remain outstanding and/or will require ongoing monitoring to ensure that commitments to remedial action are carried through. The WRC looks forward to working with buyers and management to see that all three facilities meet our shared standards.

The Response of University Licensee and Other Key Brands

The WRC received mixed responses from the brands that have had and/or currently hold a business relationship with Far East, First Apparel, and Fair Textile. The primary apparel companies that have sourced from these facilities within the recent past and with whom the WRC communicated include: university licensee Vanity Fair Corporation (“VF Corporation” or “VF”), Levi Strauss & Co. (“LS&CO”), and the Gap Inc (“the Gap”). The WRC experienced a great degree of cooperation from both LS&CO and the

Gap, but has unfortunately not received substantial cooperation thus far from VF Corporation.

Response of University Licensee, Vanity Fair Corporation

Throughout the investigation and remediation process, the VF Corporation has been unwilling to take responsibility for rights violations in either the Far East or First Apparel facilities.

One problem the WRC has confronted is apparently inaccurate data supplied by VF about its sourcing relationship with these facilities. During each year since 2000, VF has cited Far East as a production site for collegiate licensed products under its labels Lee Sport, VF Knitwear, and VF Imagewear. Yet when the WRC brought this assessment to the attention of VF, the company replied that the sourcing information it had provided the Collegiate Licensee Company (CLC) was inaccurate and that no collegiate VF apparel had ever been produced at Far East. VF stated that it had taken a “more is better” approach to disclosing its sourcing locations, giving the CLC the name of every possible supplier it might use, rather than only factories that have actually been used.¹ Furthermore, VF stated that, because it had not produced collegiate apparel at the factory, it had no intention of cooperating with the WRC’s assessment process or participating in any remediation effort.

The WRC Assessment Team found that VF had indeed sourced production from both Far East and First Apparel, although the investigation could not determine conclusively whether or not these goods were destined for the university market. According to worker testimony, at the time of the WRC’s Assessment there was no production of Lee Sport, VF Imagewear, or VF Knitwear at either of the factories, but all interviewees could easily recall having made VF goods in the past. The testimonial evidence was inconclusive as to whether these goods were collegiate licensed; while the VF apparel did not bear university logos, the possibility remains that the blank denim goods were emblazoned at a later stage in the production process.

In any event, there is no question that VF has sourced from Far East and First Apparel in the past, as evidenced by the extensive testimony from workers on this question and VF’s own admission that its products were produced in the facilities as of September 2003. There is also no question that this production took place over a period of years during which a number of violations of worker rights described in this report occurred.

Another issue of particular concern has been VF’s unwillingness to continue a business relationship with the factories in light of the substantial improvements that have been made. The WRC has encouraged VF to continue placing orders with the factories (collegiate or non-collegiate), noting that both factories have accrued substantial expenses in their efforts to reach compliance, and that, as a major buyer, VF is in a position to help sustain these improvements. VF replied that, despite the improvements, it had no interest in placing future orders at either factory. Further, VF made explicit

¹ VF acknowledged that it had ordered non-collegiate Lee Sport goods from the factories as recently as September of 2003. In noting this “last order” between VF and Far East, VF management stated that, according to company policy, the factory would have automatically been dropped to “inactive” status after three months, making it ineligible as a sourcing site. If true, this would mean that Far East should have been dropped from VF’s list of possible sourcing sites by December of 2003, but the factory was listed in VF’s disclosure data to the CLC again three separate times after this date: April, July, and October of 2004. The WRC first notified VF of its assessment of Far East in September of 2004.

that the goods of a brand it had recently acquired – Nautica – which were being produced in large quantities at Far East and First apparel as recently as October, 2004, would no longer be sourced from either factory. Just prior to the publication of this report, VF indicated that it may reconsider placing orders at First Apparel, yet it has thus far made no firm commitment to do so.

The WRC remains deeply concerned by the response of VF to the assessment of Far East and First Apparel. The WRC has continued to urge VF to cooperate in the remediation process. The WRC has also requested that VF accept some level of responsibility for having provided universities with flawed disclosure information over a period of years and to correct problems in their disclosure process. To date, VF has remained unwilling to participate in any way in the remediation process, and has only made vague suggestions as to how it might correct problems in the way it discloses data on supplier factories.

Response of Levi Strauss & Co. and the Gap, Inc.

Quite stark in contrast with the university licensee's behavior, two other key brands sourcing from Far East and First Apparel – Levi Strauss & Co. and Gap Inc. – have played a crucial role in both the assessment process and remediation efforts. Both brands responded quickly and positively after being informed of the WRC's compliance concerns at Far East, Fair Textile and First Apparel. Given the companies' respective allocation of orders, LS&CO focused primarily on assisting the WRC in assessing the current situation at First Apparel, while the Gap focused on Far East. Both brands helped facilitate meetings between the WRC and management, and have lent substantial technical expertise and given insightful input into the development of recommendations for corrective action. Both brands have pledged to continue monitoring the situation, working with management, workers, and the WRC to assure that the recommendations set out in this report are carried through.

The results of this collaboration in monitoring efforts have been overwhelmingly positive. All parties, including the WRC, Gap Inc, LS&CO, management and employees, shared in developing the comprehensive remediation plan reflected in the recommendations of this report. The collaborative approach has streamlined the monitoring process and minimized conflicting recommendations. The remediation plan is well understood by all parties and its implementation will be monitored collectively.

Sources of Evidence

The WRC's findings and recommendations with respect to Far East Garment Textile Co. Ltd. and First Apparel Co. Ltd. are based upon evidence from the following sources:

- Interviews with over 30 current and former Far East and First Apparel employees. The interviews were conducted on and off the factory worksites.
- Interviews with the owners, production managers, personnel managers, supervisors and head line leaders of Far East and First Apparel.
- Communications with compliance officers of the Gap in the USA and Thailand.
- Communications with compliance officers of LS&CO of USA and Southeast Asia.
- Communications with representatives of Vanity Fair in the USA.

- An occupational health and safety survey performed by an OHS expert and member of the WRC Assessment Team.
- Collection and review of relevant documents, including: collective bargaining agreements, minutes from tripartite negotiation sessions, audit reports from government occupational health and safety officials, wage calculation forms, and official documents from legal disputes.
- Analysis of Thai law in the areas of industrial relations and workplace standards.

Allegations Assessed in this Report

Based on preliminary research by WRC staff and consultants, including extensive worker interviews, a number of potential violations of law and of college and university codes of conduct were identified for investigation by the WRC Assessment Team. The concerns and allegations were as follows:

Far East

- *Freedom of Association.* That the factory has violated employees' associational rights through a variety of means, including coercing union leaders to deny rights violations to auditors, pressuring employees to not participate in the union, and unlawfully terminating a union leader.
- *Hours and Wages.* That the factory violated employees' rights by enforcing a policy of obligatory overtime, failing to provide breaks to employees working overtime, and compensating employees at a rate less than the prevailing wage.
- *Harassment and Abuse.* That workers have been subjected to verbal abuse by managers and supervisors.
- *Occupational Health and Safety.* That the factory has failed to provide a safe and healthy working environment to employees. These concerns include a number of specific problem areas in the factory.

First Apparel

- *Freedom of Association.* That the factory has violated employees' associational rights by pressuring workers to not contact or join a labor union.
- *Hours and Wages.* That the factory has failed to compensate employees for work performed on employees' weekly rest day and altering employees' holiday schedule without sufficient notice.
- *Harassment and Abuse.* That employees have been subjected to verbal abuse by managers and supervisors.
- *Occupational Health and Safety.* That the factory unreasonably restricts restroom access.

We outline below the WRC's findings with respect to each of these areas of potential non-compliance and, where appropriate, list recommendations for remedial action, developed in consultation with workers, buyers, and experts in the field.

**FINDINGS, RECOMMENDATIONS AND STATUS REPORT
RE FAR EAST GARMENT TEXTILE CO. LTD.**

1. Freedom of Association and Collective Bargaining

Allegations

That the factory has violated employees' associational rights by: a) coercing union leaders to deny rights violations to auditors; b) intimidating union members and pressuring employees to not participate in the union; c) unlawfully terminating a union leader; d) discriminating against union members in access to annual holiday leave; e) denying union leaders' lawful right to union leave; f) unilaterally altering the substance of a collective bargaining agreement after negotiations on the agreement were completed; e) circumventing union participation in the factory's Company Welfare Committee.

Findings

a) *Coercion of union leaders to deny violations to auditors*

Finding: The WRC found that Far East management abused the associational rights of employees when it forced the officers of the Far East Garment Union's Executive Committee to sign a falsified letter addressed to the factory's buyers and the WRC which denied allegations of worker rights violations at the facility.

The WRC received a copy of the letter in question from the union on September 18, 2004, along with a communication of distress regarding the circumstances under which it was signed. Several days later, the WRC received a copy of the letter and an English translation from factory management, with an indication that management was passing the document along on behalf of the Far East Garment Union. The letter read in part:

“The Far East Garment union has never had any problems with or been exploited by the employer. All members of the Far East Garment Union have job security, have been looked after properly and have never been divided or repressed. Furthermore, the employer has improved the environment of the work area and working conditions to a good level. All employees and union members are therefore satisfied with our company.”

The Assessment Team investigated the origins of the letter and found the following. On September 18, 2004, shortly after the WRC announced its intention to conduct an inquiry into alleged worker rights violations at Far East, factory management called members of the Executive Committee of the Far East Garment Union into a meeting. The factory's personnel manager announced to the union officials that the factory had received a letter from customers and a monitoring organization regarding the factory's labor practices. The personnel manager stated that it was urgently necessary for the company to “advertise its beauty” in order to persuade buyers to renew orders. Because of the urgent situation, the manager stated that she had drafted a letter for the union to sign so that it could be faxed immediately

and that she wanted the union's stamp "so that the customers would find it credible." The union president and officers initially balked at the request, insisting that the letter contained false information, and that working conditions should be improved before the letter was signed. During the lengthy meeting that ensued, factory management repeatedly demanded that the union officers sign the letter, promising that working conditions would be improved once the orders were renewed, and threatening that the union officers could be responsible for a crisis of the company that might result in loss of jobs if they did not sign the letter. The pressure produced by management's demands reached such a level that one union officer fainted and required hospitalization, while another broke down in tears. Ultimately, the union officers acquiesced to management's demands and signed the letter.

The Assessment Team concluded that management's action constituted harassment and intimidation of union officers, as well as interference with the free functioning of employee trade unions, in violation of Thai law² and international law.³ This act also represented an unusually brazen effort to undermine code of conduct enforcement.

Recommendation: In its dialogue with management, the WRC stressed that the company should never ask employees to sign fraudulent documents, ask employees to mislead auditors about working conditions, or make job security or workplace improvements contingent upon such behavior. The WRC recommended that Far East management retract the letter immediately and write a formal letter of apology to the Far East Garment Union for coercing its officials to sign the letter. The WRC further recommended that this letter be presented to the union in a face-to-face meeting with management. As discussed below, the WRC also noted that, at a general level, the most important remedial action needed was for the Far East management to commit itself wholeheartedly to working with the union to resolve workplace disputes and improve working conditions.

Management Response: Upon being presented with this recommendation, management agreed immediately to take the recommended action by drafting a letter of apology and presenting it to the union.

b) *Intimidation of union members*

Finding: The WRC found that managerial and supervisory personnel have violated employees' associational rights under Thai law,⁴ international law,⁵ and applicable codes of conduct by engaging in acts of intimidation designed to prevent employees from joining or continuing membership in the Far East Garment Union. The Assessment Team found, based upon extensive, credible testimony, that the factory's personnel manager and head line leader have verbally encouraged union leaders to stop their involvement in union activities. Some workers have also testified that while they were still on probationary status during the previous 12 month period they were told by supervisors that they must make an oath that they would not join in the union if they were to be granted permanent status. At the time of the WRC's

² Thai Labor Relations Act of 1975, Section 121 (4)

³ International Labor Organization, Conventions 87 and 98

⁴ Thai Labor Relations Act of 1975, Section 121 (3)

⁵ International Labor Organization, Conventions 87 and 98

assessment, employees were still being told by members of management that if they communicated with or joined the union they would face unspecified consequences. Additionally, the Assessment Team heard credible testimony from Far East employees to the effect that they have been warned not to contact employees of First Apparel or to make any effort to spread a unionization effort to employees of First Apparel.

Recommendations: The WRC recommended that Far East management draft a written policy affirming the right of workers to join any union of their choice, or no union, and that management will neither reward nor punish any worker for the choice they make. The policy should be posted prominently throughout the factory. Every line and/or department supervisor should be required to read the policy out loud to the employees under his or her authority. The WRC also recommended that management include an explanation of the company's freedom of association policy in its orientation for new employees.

Additionally, the WRC recommended that all employees that have been held in probationary status beyond the legal time limit (119 days) be granted permanent status immediately, regardless of their interest in the union

Finally, after dialogue with the WRC, the Gap Inc. and LS&CO further recommended that Far East and First Apparel conduct some joint activities in order to restore camaraderie between the two workforces and to demonstrate management's willingness to allow the two workforces to communicate freely. The WRC supported this recommendation.

Management Response: Management pledged to take the recommended actions regarding the announcement and posting of a freedom of association policy. The WRC provided the factory with sample statement and policy language on freedom of association. Shortly after agreeing to this recommendation, management fulfilled its commitment by announcing and posting its statement.

Regarding the recommendation on workers holding "probationary" status, management pledged that it will make every effort to ensure that all workers who complete their probation period in a satisfactory manner are made permanent, and clarified that this decision will be based solely on employees' work performance and never on union preference. The WRC expressed satisfaction with management's clear understanding of the laws regarding probationary periods. However, given the importance of implementing this policy adequately in the future, the WRC further recommended that the factory provide training to all supervisors and managers on carrying out the policy, in combination with training on other areas discussed in this report.

Management also agreed to hold joint Far East– First Apparel activities in the near future. Management will plan these activities with the assistance of the Welfare Committee at Far East. To begin, management has scheduled a joint training on teamwork for the supervisors and workforces of the two factories in February and March, 2005. The WRC requested that the training also include information about freedom of association, and requested an opportunity to review the curriculum before the activity takes place.

c) *Wrongful termination of union leader*

Finding: The former president of the Far East Garment Union was terminated in May 2002, less than one month after the conclusion of negotiations of a collective bargaining agreement. The WRC concluded that the firing was carried out in retaliation for the worker's lawful union activity and therefore violated provisions of Thai law,⁶ international law,⁷ and applicable codes of conduct that prohibit the termination of employees for the exercise of associational rights.

The Assessment Team found that Management's stated justifications for the firing were neither consistent with Thai law nor congruent with several verdicts of the Labor Court of Thailand. The first justification cited by factory management for the termination was "habitual lateness". The Assessment Team determined that the employee was indeed late frequently during a two-month period (in part due to fulfilling union responsibilities), but this behavior did not represent legally sufficient grounds for dismissal. The factory requested permission from the Labor Court of Thailand to terminate the employee on this basis, but the Court denied the request. The Court found that the employee's behavior did not justify termination and the company could, at most, issue the employee a written warning.⁸

The second justification for the firing offered by management was "inappropriate behavior". The Assessment Team found that the primary behavioral incident in question was a heated discussion between the employee and a supervisor. According to eye-witness testimony and management's own documents, the union leader had intervened in a conversation between a co-worker and supervisor in order to defend the choice of the co-worker to refuse overtime work. The Assessment Team determined that this was a legitimate and relatively common-place activity for a union officer and did not warrant the employee's termination. Indeed, terminating the employee in retaliation for the exercise of her role as a union officer represents a serious violation by management of the employee's associational rights and that of all other employees in the facility. Such actions have chilling effect on the exercise of associational rights throughout the workforce, signaling to other workers they can expect the loss of their job if they choose to exercise their rights.

Considering the forgoing, the WRC concluded that the dismissal of the employee was wrongful and that the employee retained the right to be reinstated to her former job.

It is important to note that while the employee ultimately agreed to accept severance, the acceptance of severance does not diminish the employee's right to reinstatement. Indeed, the offer of severance for the purpose of disposing of workers who have sought to exercise their associational rights is, from the standpoint of applicable codes of conduct, itself a violation of workers' associational rights.⁹ In this case, the employee only accepted the offer of severance after a period of several months between April and July 2002 during which the factory refused to abide by a

⁶ Thai Labor Relations Act of 1975, Section 121 (2)

⁷ International Labor Organization Conventions 87 and 98 prohibit non-union discrimination, including, in particular, acts calculated to "cause the dismissal" of workers by reason of union membership.

⁸ Labor Court Case #8957/2544

⁹ For example, the Fair Labor Association code compliance benchmarks state the following: "Employers shall not offer or use severance pay (or "indemnización" in Latin America) as a means of restricting union formation or union operations."

court order that barred the factory from firing her. In essence, Far East gave the employee the option of leaving her job and accepting severance or being fired and receiving nothing – a clearly illegal ultimatum on the part of factory management.

Recommendation: The WRC recommended that the employee who was wrongfully terminated be given an offer of reinstatement.

Management Response: Upon being presented with this recommendation, management agreed to meet with the employee and has pledged to offer her reinstatement. Management has further pledged to follow proper disciplinary and termination procedures in the future, and to make these procedures clear to all employees and supervisors as soon as possible through posted announcements as well as trainings and discussions with employees.

d) *Discrimination against union members in access to annual leave*

Finding: The Assessment Team found that factory management has required union members to provide three day's notice before accessing their annual leave, a requirement that was not imposed on non-members. This practice represents discrimination against union members, in violation of aforementioned provisions of law and applicable codes of conduct that bar discrimination against employees and protect the exercise of associational rights.

Recommendation: The WRC stressed that the company should never discriminate against any employee on the basis of union membership or any other factor in formulating or implementing factory policies. The WRC recommended that the factory establish a clear anti-discrimination policy and train all supervisory personnel in carrying out this policy.

Management Response: Management agreed to draft an anti-discrimination policy and present it to employees and to train supervisors regarding the implementation of this policy. Management also included specific language regarding equal access to annual leave in a freedom of association policy presented to employees, discussed above in this section.

e) *Denial of access to union leave*

Findings: The Assessment Team found that union officers have been denied access to union leave in order to participate in seminars and other meetings to which they are entitled by law to participate.¹⁰ These events have included events to which union leaders have been formally invited by the Thai government. As evidence of this behavior, the WRC was supplied by the union with a copy of a handwritten refusal note given to the union by factory management in response to a request to participate in an event to which the union was invited by the Institute of Occupational Safety, a Thai government agency in late June of 2004. Union officers have also been barred by management from participating in union-related meetings outside of work hours due to forced overtime.

Recommendation: The WRC recommended that factory management, in drafting the formal apology letter to the union described above, make note of past refusals to grant such permission to attend union activities and make clear that the union has the right to attend such activities. The WRC also recommended that the union and

¹⁰ Thai Labor Relations Act of 1975, Section 102

management meet at the earliest possible time to agree upon a process by which the union will notify the management of participation in these activities.

Regarding the issue of union members participating in union activities outside of standard work hours, the WRC stressed that management should ensure that all overtime is performed voluntarily. For specific recommendations in this area, see the section below on “Hours and Wages”.

Management’s Response: Upon being presented with these recommendations, management pledged to take the recommended actions.

f) *Unilateral alterations of collective employment contract*

Finding: The Assessment Team found that factory management had unilaterally altered the content of a collective bargaining agreement with the Far East Garment Union after negotiations had been completed on the accord. Following the conclusion of negotiations in May 2002, management inserted a provision mandating that the contract would remain in force for an additional two years, a clause not agreed to in the course of negotiations. The union only learned of this clause when it was presented with a printed copy of the employment contract several days after the negotiations were completed.

Recommendation: As a corrective measure, the WRC recommended that management renegotiate with the union as soon as possible and establish a mutually agreed upon negotiation schedule.

Management Response: After bringing this issue to management’s attention, Far East promptly renegotiated with the union and adopted an annual period for the bargaining. The next period of negotiations are scheduled to begin in September of 2005. While management’s response was positive, the issue remained problematic because the provincial labor department has declined to accept the new annual bargaining provision. As a result, while it has been agreed that the union and management will negotiate a collective bargaining agreement each year, the union will not be able to file any appeals to the relevant government agencies if substantial disputes arise during negotiations. Thus, in a joint meeting with management on November 29, it was agreed that Gap and WRC would serve as observers of the contract negotiations if a third party is deemed necessary and the provincial labor department is unwilling to provide mediation at that time. Management has further pledged to post the new contract, once negotiated, as a new “company policy” if the provincial labor department is not willing to certify it as a new collective bargaining agreement.

g) *Exclusion of union members in the Company Welfare Committee and confusion regarding the roles of factory committees.*

Finding: The WRC found that factory management has sought to exclude participation of union representatives in the factory’s Company Welfare Committee. In establishing the committee, management initially handpicked the committee’s membership, excluding union representatives. Management eventually agreed to hold elections, and several union members were elected at this time. However, according to worker testimony, union participation in the committee continued to be hindered, as management occasionally excluded union members who had been

serving on the committee from consultations about company policy. The failure to ensure union representation in the committee process does not represent a clear code of conduct violation; nevertheless, from a practical perspective, because union leaders are the formal representatives of the workforce, the factory's exclusion of them in the committee process is poor practice.

The WRC also found that there is substantial confusion among the workforce regarding the role of the Company Welfare Committee relative to that of the Health and Safety Committee, and to labor-management forums involving the Far East Garment Union.

Recommendation: The WRC recommended that the factory ensure that all members of the Company Welfare Committee are included as full committee participants and are included in all discussions concerning committee matters. The WRC also recommended that the management clarify with workers the mandate of the factory's various committees and how they differ from one another, and that the committees do not supplant the role of the union.

Management Response: Management agreed to make efforts to ensure the participation of all committee members, including providing members with advance notice of any committee discussions. Management also agreed to furnish the WRC with transcripts of the committee meetings in order to monitor progress in this area. The factory's personnel manager has delivered a presentation to employees regarding the function of the various committees. Management has also arranged for the Department of Labor Protection and Welfare (Pravej District Office) to provide training on the workings of factory committees.

2) Hours and Wages

Allegations

That factory management violated employees' legal rights in the area of hours and wages by: a) requiring employees to work obligatory overtime; b) failing to provide breaks to employees working overtime; c) compensating employees at a rate less than the prevailing wage; d) placing unnecessary obstacles in the way of employees' access to holiday leave.

Findings

a) *Forced overtime*

Finding: The Assessment Team found that Far East employees have been pressured to work overtime and reprimanded for declining to do so. This action violated provisions of Thai law¹¹ and applicable codes of conduct that ban mandatory overtime. In interviews with the Assessment Team, workers testified credibly that supervisors frequently tell employees that they must work overtime when the factory requires it of them and that any employee who declines to work overtime must provide a specific excuse. On repeated occasions, workers have been scolded and reprimanded for refusing to perform overtime and for failing to secure "permission" to leave the factory or find a replacement. Workers testified that during occasions in which they have decided not to work overtime because of severe fatigue, they have

¹¹ Thailand Labor Protection Act 1998, Section 24

been scolded and encouraged to quit. This problem appears to be especially pronounced with regard to new employees who are still on probationary status.

Recommendation: The WRC recommended that the factory establish a clear policy that all overtime work must be voluntary, and train all managerial and supervisory personnel in carrying out this policy. As part of this policy, the company should allow all workers to notify their immediate supervisor, either verbally or in writing, that they do not wish to work overtime on a given day that overtime is offered. Workers should be allowed to make this notification up to the time that the overtime begins. This policy should be posted prominently in the factory and management should make it clear to supervisors that no worker can be disciplined or punished in any way for refusing to work overtime. The WRC encouraged management to involve the union in drafting the policy and informing employees about its content.

Management Response: Upon being presented with this recommendation, management agreed immediately to draft an overtime policy and discuss it with employees.

b) *Failure to provide breaks to employees working overtime*

Finding: The Assessment Team found that the factory violated employees' right to a break from work between regular working hours and overtime. By law, workers in Thailand are entitled to a break of at least 20 minutes between regular and overtime hours, whenever the period of overtime exceeds two hours.¹² Overtime in the facility normally takes place until 6.30 pm or 8:00 pm, occasionally lasting until 10:00 pm. However, the Assessment Team found that employees are generally not permitted any break whatsoever before overtime begins, even when the shift lasts until 10:00 pm. As a result, workers are forced to eat while working. Workers are reprimanded verbally if they are caught eating while on the job.

Recommendation: The WRC recommended that employees who choose to work overtime should be permitted at least a 20 minute paid break prior to beginning overtime work and should be provided all other break periods mandated by law.

Management Response: Management agreed to include clear language regarding evening breaks in its new overtime policy, and plans to discuss this policy in its entirety with employees at a meeting scheduled to take place in several weeks. In this new policy, workers will be given the option of taking a break of 20 minutes before overtime commences, including during instances in which overtime takes place for less than two hours.

c) *Non-payment of prevailing wage*

Finding: The Assessment Team found that the Far East factory violated employees' rights under applicable codes of conduct to be compensated at no less than the prevailing industry wage. Numerous campus and company codes of conduct require producers to compensate employees at the prevailing industry wage rate or higher. The WRC has gathered data on prevailing wage rates in the region and found that Far East's compensation of employees falls below the prevailing industry wage for employees with similar occupations. At the time of the WRC's assessment, Far

¹² Thailand Labor Protection Act 1998, Section 27

East compensated its employees, most of whom are skilled, senior garment workers with ten (10) years or more of work experience, at a daily rate at or just above the minimum wage of 170 Baht/day. Most similarly situated businesses in the region pay at least one Baht above the minimum wage per day for each year of seniority accrued by the employee – a rate substantially above that of Far East. On September 18, 2004, factory management had promised employees a wage increase once a settlement was reached with customers. As of November, 2004 the Assessment Team found that no wage increase had been provided.

Recommendation: The WRC recommended that the factory compensate employees at no less than the prevailing industry wage, and provided the factory with relevant data about wage levels in the region.

Management Response: Management increased employees' wages to the prevailing wage level, starting the last pay period of January, 2005. The new wage rate is the following: employees with 1-5 years seniority will receive an additional 7 Baht daily for a new total of 182 Baht per day; employees with 5-10 years of seniority will receive an additional 11 Baht daily for a total of 186 Baht per day; and employees with more than 10 years seniority will receive an additional 18 Baht daily for a total of 193 Baht per day. In addition, management announced that it will offer a new system of annual wage increases according to a work quality grading system.

d) *Problems accessing holiday¹³ leave*

Finding: The Assessment Team identified problems concerning the granting of holiday leave to employees. On at least one occasion, the Assessment Team found that the factory has unilaterally changed the date of an employee holiday (the holiday long scheduled for July 28 was changed to August 28). This is an issue of particular importance to employees because the date change, made with little or no notice, meant employees would lose money spent on travel tickets purchased long in advance or take personal leave if they have any available (and consequently lose their monthly diligence bonus). Employees of shorter tenure had no personal leave days to take and were forced work on this day. Additionally, factory management recently announced to employees they would not be permitted to take two days off as holiday leave in connection with the New Year, as has been customary practice in the past; instead the company reimbursed unused holidays. Issues concerning access to holiday leave are of particular concern to employees given that Far East employees are allotted just six annual holidays to begin with. Factory management asserted that the company does not normally alter the annual holidays, except in urgent circumstances and during these occasions workers are provided with a special bonus. The case in question does not appear to be of an urgent nature given the level of orders reportedly in the factory during the time period in question.

Recommendation: The WRC noted to management that the company may ask workers to work on a day previously scheduled as a holiday, but should refrain from obligating workers to work on a traditional (e.g. national or religious) holiday. The WRC recommended that management negotiate with union representatives regarding any changes in the holiday schedules at least two weeks in advance of any changes, or

¹³ Under Thai law, as stipulated in the Labor Protection Act of 1998, Section 5, "holiday" refers to a day fixed and upon which an employee enjoys a weekly or traditional holiday or his/her annual vacation.

further if possible. Employees' personal holiday leave time, once approved by management, should not be rescheduled without the employee's consent.

Management Response: Management agreed to implement a policy of providing employees with a signed and dated notice of approval for holiday leave requests within a day of the request being made and will not alter the agreed upon date without consent from the employee. Management has begun to draft this policy and will disseminate it among employees and supervisors within a few weeks.

3) Harassment and Abuse

Allegations

That employees are subjected to verbal abuse by managers and supervisors.

Findings

a) Verbal Abuse

Findings: The Assessment Team determined that factory managers and supervisors have frequently addressed workers in coarse, derogatory, and demeaning language, in violation of provisions of applicable codes of conduct that forbid the harassment and abuse of employees. Workers testified that the head supervisor has occasionally kicked over boxes containing employees' work and screamed at employees for production errors. Workers also provided highly detailed testimony regarding the behavior of two additional supervisors whom they accused of verbal abuse. According to testimony, both supervisors have consistently used degrading language as a means of enforcing discipline, such as screaming at employees who have committed production errors phrases such as, "Have you forgotten your brains at home!?" One employee testified that, on an occasion in which she had no thread to work with, a supervisor screamed, "You can cut your pubic hair and use it!" Finally, workers also complained that on occasions on which employees have finished their assigned work, they are frequently scolded for sitting idle, and if they leave their stations to find additional work they are likewise scolded and told to return to their seats. These actions constitute violations of the factory's obligation under applicable codes of conduct to provide a workplace free of harassment and abuse.

Recommendations: The WRC recommended that management train all supervisors in appropriate supervisory behavior. The WRC further recommended that the factory establish several channels of communication through which grievances regarding harassment and verbal abuse can be raised safely by employees. First, given the infrequency of top management's visits to the factory, management should post the phone number of the senior level manager publicly within the factory so that workers are able to contact this individual if the need arises. Second, management should schedule regular (e.g. monthly, or at the least quarterly) labor-management meetings with the factory's union representatives during which the progress of addressing these concerns can be reviewed, and new concerns, should they arise, can be brought forward.

Management Response: Management agreed to the WRC's recommendations in this area. Management gave the line leaders in question a stern warning and review

of appropriate supervisory behavior in October, 2004 regarding their treatment of employees; workers have reported unanimously that the behavior the line leaders in question has since improved markedly. The factory has arranged for all of the factory's line leaders to participate in a series of workshops on appropriate supervisory behavior throughout 2005. The trainings will include a close examination of issues of verbal abuse. The WRC has been assured an opportunity to review the curriculum before these trainings take place.

Additionally, with technical assistance provided by Gap, the company has established a complaint box system for workers to report cases of verbal abuse inside the factory. As well, management has agreed to provide three opportunities each month for workers and worker representatives to meet with management to discuss issues of concern. Management has proposed the following schedule: the managing director will visit Far East once during the first week of each month; the personnel manager will visit Far East once during both the second and fourth week of each month; and the personnel manager will have regular meetings with the union's officers at least twice each month. This proposed schedule was agreed upon at a meeting in late January, 2005.

4) Occupational Health and Safety

Allegations

That the factory has failed to provide a safe and healthy working environment for employees, in the following areas: a) dangerously high ambient temperatures and poor ventilation; b) flooding of the factory grounds; c) leaking of the roof and occurrence of electrical shocks; d) a lack of lockers for food storage; e) lack of a finger guard on the buttonhole sewing machine; f) substandard chairs; g) unreasonable restrictions on bathroom use; h) lack of a functional Occupational Health and Safety Committee; i) unreasonable obstacles in accessing sick leave; j) failure to promptly provide employee with health insurance cards; k) lack of clinic and nurse.

Findings

a) *High ambient temperatures and poor ventilation*

Finding: Workers provided consistent, credible testimony that during the hot season the Far East workplace reaches temperatures that are unbearably high. Several workers testified that employees have fainted while at work as a result of the heat. When the WRC conducted its onsite evaluation in November, 2004, the factory's temperature was at a comfortable level and within the legal limit; however, this evaluation took place during the region's cool season, and thus did not speak to the facility's state during other times of the year.

The problems underlying the high temperatures may include a lack of roof insulation, lack of hot air extraction mechanisms, and lack of an effective ventilation system. A clear problem has been the poor condition of the factory's ceiling fans. According to credible worker testimony, on at least one occasion a ceiling fan fell to the floor while people were working.

Recommendation: In order to effectively monitor this problem and identify where and when the temperature continues to reach unacceptable levels, the WRC recommended that factory management install a series of thermometers throughout the factory premises at equidistant locations. Individual workers – perhaps members of the Health and Safety Committee – should be appointed to record the temperature from each thermometer on a log sheet periodically throughout the day. The WRC recommended that this monitoring method and the installation of equipment as needed should be carried out until the factory’s heat problem is under control. The factory’s Health and Safety Committee should take the lead in moving this process forward and recommending any additional measures.

Additional fans, insulation, extractors, and perhaps air conditioning in some areas may be necessary to fix the problem. In order to concretely identify the causes of the temperature problem, the WRC recommended that management consult with technical experts to assess the impact of the cooling measures already taken and best determine what other measures should be taken.

Management Response: As of the Assessment Team’s onsite visit in November 2004, the factory’s ceiling fans had been replaced with standing fans. The WRC also found that management had installed new floor fans and a water sprinkler on the roof. These efforts have decreased the temperature and increased ventilation. Workers have reported that they feel an improvement in the factory’s temperature with these changes. However, it remains to be seen if these measures will prove sufficient during the hot season (at the time of issuance of this report, Thailand remains in its cool season). The WRC commends management’s efforts to address the heat and ventilation problems quickly, but reiterates the recommendations outlined above. Management agreed to begin monitoring this problem by installing thermometers throughout the facility.

b) *Flooding*

Finding: Flooding of the factory compound during the rainy season has been a severe problem in the recent past. The issue is of particular concern to employees given the filthy condition of the floodwater: contaminated by oil and cat urine and many employees believe dye residue from the recently closed dyeing section. In some cases, the flooding is so severe that the factory’s toilet overflows, posing greater health hazards. Several workers reported experiencing allergic reactions, such as rashes and blisters, to the water. Employees have been required to remove the water from the premises themselves before beginning work by manually scooping the water with buckets and dustpans. During these instances, employees are not provided with safety equipment such as boots or gloves. Workers asserted that they have been threatened by supervisors that they must clean up the water or else quit their jobs.

Recommendation: The WRC recommended that the factory consult with persons with technical expertise in draining systems and flood control and continue to take whatever actions are necessary to prevent flooding. If the flooding continues, at minimum, a better system should be devised to remove the water and employees should be provided with all necessary protective equipment. The WRC recognizes the difficulty of solving this problem given that the factory is on lower ground than the surrounding area.

Management's Response: Factory management acknowledged that flooding is a problem and has pledged to continue to address this problem. Thus far, management has cemented the floor of the cantina and made a small dam in front of the doorways. While these improvements are a good start, it is unlikely that these measures will address all of the flood-related concerns, particularly the past problem of toilets overflowing; thus management should continue to seek technical expertise in this area. It should also be noted that it will not be possible to assess the impact of the actions taken thus far until the return of the rainy season.

c) *Leaking roof and occurrence of electrical shocks*

Finding: The Assessment Team found that the factory's ceiling leaks, allowing water to drip on to machines and employees while they are working. Several workers stated that on occasions when they have reported leaks, managers have simply told them to move their machines, rather than fix the problem. The Assessment Team also heard credible testimony regarding several incidents in which employees have received electrical shocks resulting from water dripping on their operating machines. The most recent incident occurred in February 2004.

Recommendation: The WRC recommended that the factory repair all leaks in the roof as soon as possible, at the very latest before the start of the next rainy season.

Management Response: Management agreed to correct the problem. In early December, the factory began construction of a new drainage pipe to the roof to the facility. The factory has also arranged a consultancy with a construction engineer to design the ceiling repairs and other infrastructure improvements, as well as has scheduled monthly maintenance visits with an electrical engineer.

d) *Lack of lockers for food storage*

Finding: The Assessment Team found that employees are not provided with sufficient accommodations to store their food and other personal belongings. Due to a lack of storage lockers, most employees have taken to hanging their food in plastic bags on the factory's internal pillars. The only other option has been to leave their belongings in the facility's kitchen where food is frequently eaten by cats.

Recommendation: The WRC recommended that the factory provide individual locker spaces and sufficient food cupboards for all workers.

Management Response: Management agreed to discuss this item with the Welfare Committee and determine what type of additional storage space is preferred by employees. Management subsequently agreed with the Welfare Committee's recommendation to purchase a new food cupboard and individual lockers for employees. The WRC verified that the factory has installed the new food cupboard. Management has pledged that the lockers will be installed within weeks.

e) *Lack of finger guard on buttonhole sewing machine*

Finding: The Assessment Team found that the machine that sews the rims of the buttonholes lacks a finger guard. The machine is also excessively noisy.

Recommendation: The WRC recommended that the factory install a finger guard on this machine, fix problems causing its excessive noise, and provide proper earplugs to employees.

Management Response: Several adjustments have been made to reduce noise and employees operating the buttonhole machine have been provided with proper earplugs. This has, for the moment, solved the noise problem. Management has committed to maintaining this machine regularly for noise control and safety. Management agreed to install the finger guard within several weeks.

f) *Substandard chairs*

Finding: The Assessment Team found that employees are not provided with adequate working chairs. Some employees sit on wooden boxes while working. The boxes do not provide adequate ergonomic support and do not allow the workers to change their sitting position or rest their legs under their chairs. Other workers sit on poorly made and unstable plastic chairs. Several workers reported that their chairs' legs have folded under while they were sitting, causing the chair to collapse beneath them.

Recommendation: The WRC recommended that the factory provide employees with stable, comfortable working chairs that have, at a minimum some lower-back support and space under the chair to move one's feet. Of particular urgency, proper seating arrangements should be provided for pregnant women as soon as possible.

Management Response: Management agreed to hold a meeting with the Welfare Committee in which sample chairs will be tested and the preferred model will be selected to replace the existing seating arrangements in the factory.

g) *Unreasonable bathroom restrictions*

Finding: The Assessment Team found that the factory places unreasonable restrictions on employees' access to the restroom facilities. Employees are not permitted to use the rest room during the first and last half hour of the working day. Employees have been reprimanded verbally for using the restroom during these times and told if they did so again they would receive a written warning. Employees are also treated with intrusive surveillance during restroom visits; for example, a supervisor instructed one employee to show her hands in order to prove she had used the restroom facilities.

Recommendation: The WRC recommended that the factory cease all restrictions and surveillance of employees in accessing the factory's restroom facilities.

Management Response: The factory has corrected this problem.

h) *Occupational Health and Safety Committee*

Finding: The factory formally established an Occupational Health and Safety (OHS) Committee in April of 2004. However, the Assessment Team found that the committee has not met on a monthly basis as required by Thai law¹⁴ and that commitments made at committee meetings to correct problems described in this section have not been followed through.

Recommendations: The WRC stressed that the factory should focus attention on making the OHS Committee functional. While WRC commends the factory's quick response to our recommendations regarding health and safety, it is crucial that the

¹⁴ Notification of the Ministry of Labour and Social Welfare regarding Committee on Occupational Safety, Health, and Working Environment, 1995 (2538 B.E.)

OHS Committee process, rather than reliance on outside auditors, be the locus of efforts to identify problems as they arise and sustain improvements in the future. The WRC stressed that the OHS Committee meet monthly, as is legally required. The committee should also convene each time a major workplace accident occurs in order to immediately address the causes and take preventative measures to avoid reoccurrence. Several outstanding items of concern, which the WRC suggests the OHS Committee take the lead in resolving, include insufficient light in some areas of the work floor and excessive dust and clutter throughout the facility. The WRC also recommended that the OHS Committee coordinate the process of providing the results of health exams provided by the factory to employees.

As indicated above, the WRC also stressed the need to clarify the roles and distinction between the OHS Committee and Welfare Committee, a topic of confusion among the workforce.

Management Response: Management committed to paying greater attention to OHS issues within the factory, to follow-up on issues raised by the OHS Committee, and to clarify the roles of the two committees. Since the WRC brought this issue to the attention of management, workers have reported a significant improvement in terms of their ability to communicate with management about OHS issues. Additionally, a person from the administrative department has been made committee leader; this individual will participate in a three-month training to fulfill the responsibilities of this role. The WRC has also confirmed that management is currently training the line leaders to become Line Leader Safety Officers and one office staff person to become a Safety Officer. Management has also arranged for officials from the Department of Labor Protection and Welfare (Pravej District Office) to provide training on the proper functioning of workplace committees.

i) *Unreasonable obstacles in access to sick leave*

Finding: The Assessment Team found that managerial personnel have placed unreasonable obstacles in the way of employees' access to sick leave. Specifically, employees have been required to provide a letter from a doctor to justify any absence for which they wish to take sick leave. This practice is a direct violation of the Labor Protection Act, which allows employers to require a doctor's note for only the third day of illness, but not the first two days.¹⁵ The practice means, in effect, that employees are being deprived of their right to access sick leave because the time they take off in order to recuperate from illness must be spent undergoing the lengthy and often cumbersome process of obtaining a doctor's note. The WRC found that there was some difference among supervisors in carrying out this policy.

Recommendation: The WRC recommended that the factory train all supervisors and line leaders on its sick leave policy and ensure that failure to follow the policy is not tolerated.

Management Response: Management has pledged to take the recommended action. The Far East personnel manager has recently announced to the workers that they do not need to produce a letter for the first two days of their illness. Management agreed to provide further instruction to supervisors on this policy.

¹⁵ Thailand Labor Protection Act 1975, Section 32

j) *Failure to promptly provide employees with health insurance cards*

Finding: The Assessment Team found that factory has consistently taken an excessively long time to provide new employees with identification cards for Thailand's social security program. Such cards are necessary for employees to access medical care to which they are legally entitled as contributors to the social security program. Each employer that deducts employees' contributions to the program is responsible for ensuring that the employees are provided with basic materials to access the program, including the program's identification card. As a result of Far East's failure to ensure the timely provision of the cards, employees have been forced to pay by themselves for costly medical treatment. Management has promised to reimburse these individuals for their expenses, but thus far has failed to do so. In some cases, the factory's administrative personnel have repeatedly told workers that their cards would be forthcoming in a short period and then failed to provide the cards during that time frame.

Recommendation: The WRC stressed that the factory should ensure that all workers receive Social Security cards and proactively address any bureaucratic obstacles delaying this process. Management should assure that all due reimbursements from 2004 are paid to workers as quickly as possible, preferably by no later than February, 2005.

Management Response: Management agreed to take the recommended actions. Management stated that its representatives will visit the Social Security office in the immediate future and determine the quickest way possible to furnish its employees with all proper documentation. The Personnel Manager has been assigned specifically to address this problem and help speed up the process of issuing cards within the factory.

k) *Lack of clinic and nurse*

Finding: The Assessment Team found that the factory does not have an onsite nurse or clinic. When workers report that they feel ill, they are generally allowed to rest in the facility's main office. The office is poorly equipped as a resting space for sick workers because it is noisy and provides no privacy.

Recommendation: As an employer of less than 200 workers, the factory is not required by law to have an onsite nurse and medical clinic. Nonetheless, the WRC stressed that such accommodations are critical for a healthy workplace and should be considered by company management. As a minimum step, management should install at least one bed in a room other than the office for workers to rest if they feel ill. The WRC also recommended that management provide training to a group of employees in basic first aid skills such as CPR and proper use of all items in the first aid boxes, beginning with members of the OHS Committee.

Management Response: Management has pledged to take the recommended actions. Thus far, management has created a quiet space for workers to rest if they are ill by placing a bed and screen for privacy in one of the facility's large meeting rooms.

**FINDINGS, RECOMMENDATIONS AND STATUS REPORT
RE FIRST APPAREL CO. LTD.**

1) Freedom of Association

Background

In 2000, the owners of Far East established First Apparel Thailand Co. Ltd, located in Saharatanakorn Industrial Estate, Ayuthaya, approximately 86 kilometres north of Bangkok. In late 2001, the owners transferred the majority of production and employees at Far East to First Apparel, leaving behind roughly 64 of the approximately 380 original workers at Far East.

Allegation

That the company systematically violated employees' associational rights during the transfer of employees and production from Far East to First Apparel by requiring employees who were members of the union to resign from the union before being transferred. Additionally, that since First Apparel opened in 2001, employees of the facility have been prevented from communicating with and/or affiliating with the Far East Garment Union.

Finding

a) *Obstruction of union affiliation*

Finding: The Assessment Team did not find sufficient evidence to support a finding of systematic violations of workers' associational rights related to the transfer of production and employees in 2001. The Assessment Team did, however, find evidence of isolated incidents in which First Apparel managers and supervisors have violated its workers' right of association by making threatening anti-union statements to employees.

The Assessment Team heard credible testimony from workers that individual employees, in moving from Far East to First Apparel, were asked to give up their affiliation with the Far East Garment Union. Further worker testimony also indicated that managers and supervisors have, at times during the four years since the transfer, instructed employees to refrain from communication with the Far East Garment Union or engage in efforts to join a new union. Such actions by management represent violations of employees' right to associate freely with labor organizations of their choosing, protected by Thai law,¹⁶ international law,¹⁷ and applicable codes of conduct.

Recommendation: The WRC recommended that First Apparel management draft a freedom of association policy affirming the right of workers to join any union of their choice (or no union) and that management will neither reward nor punish any worker for the choice they make. The policy should be posted prominently throughout the factory, and in addition, every line supervisor should be required to read the policy out loud to the employees under his or her authority. The WRC also recommended that management include an explanation of the company's freedom of

¹⁶ Thai Labor Relations Act of 1975, Section 121 (3)

¹⁷ International Labor Organization Conventions 87 and 98

association policy in its orientation for new employees. The WRC requested an opportunity to review this statement and suggest any necessary modifications prior to it being posted and announced to employees.

LS&CO has also recommended that the company arrange for common gathering of the workers from the two facilities (such as a “sports day”) to dispel any notion of prohibition of contact between members of the Far East Garment Union and workers at First Apparel.

Management Response: Management agreed to take the recommended actions in this area and promptly posted and announced a company freedom of association policy. Additionally, management agreed to hold joint Far East– First Apparel activities in the near future. As indicated above, management has scheduled a joint training on teamwork for the supervisors and workforces of the two factories in February and March, 2005. The WRC has requested that the training also include information about freedom of association, and requested an opportunity to review the curriculum before the activity takes place

2) Hours and Wages

Allegation

That the factory has violated employees’ rights in area of hours and wages by: a) failing to compensate employees for work performed on employees’ weekly rest day; b) altering employees’ holiday schedule and failing to provide adequate compensation for work performed in connection to a scheduled holiday.

Finding

a) Uncompensated work on weekly rest day

Finding: The Assessment Team found that there have been occasions on which some First Apparel workers have not been compensated for work performed on their weekly rest day (Sunday). This practice constitutes a clear violation of provisions of Thai law¹⁸ and applicable codes of conduct that require employees to be compensated for all work performed and, if applicable, at the legally mandated overtime rate.

Recommendation: The WRC stressed that workers should always be compensated for all work performed, and should be paid the legally mandated overtime rates for work performed on rest days. LS&CO further recommended that pay-slips should be improved to capture all relevant information regarding hours and wages so that workers may better understand how their wages are calculated.

Management Response: Management acknowledged the problem and agreed to communicate to all supervisors that unpaid work and work compensated at less than the proper pay rate is strictly prohibited. Management agreed to compensate employees for back wages to which they are entitled. In December 2004, workers found to have performed uncompensated work on Sundays were paid back wages owed to them. Pursuant LS&CO’s recommendation, management has also agreed to implement an improved pay-slip system.

¹⁸ Thailand Labor Protection Act 1998, Section 24

b) *Holiday leave¹⁹ and compensation*

Finding: The Assessment Team identified problems concerning the granting of holiday leave to employees, which parallel problems identified at Far East Garment. On at least one occasion, the factory unilaterally changed the date of an employee holiday with very little warning (the holiday long scheduled for July 28 was changed to August 28). As discussed above with respect to Far East, this is an issue of particular importance to employees because the date change meant employees would lose money spent on travel tickets purchased long in advance or take personal leave if they have any available (and consequently lose their monthly diligence bonus). Employees of shorter tenure had no personal leave days to take and were forced work on this day. In addition, the Assessment Team found that First Apparel did not pay the legally required holiday rate to employees on the day worked in exchange for the cancelled holiday, in violation of the factory's obligation under Thai law²⁰ to pay workers at the applicable holiday pay rate.

Recommendation: The WRC noted that the company may ask employees to work on a scheduled holiday, but should refrain from obligating workers to work on a traditional holiday, and should always pay the proper holiday salary rate (of twice the regular salary rate). Management should negotiate with workers any changes in the holiday schedules, and do so at least two weeks in advance, or further if possible. As indicated above, LS&CO recommended that management create a better system to document each hour of overtime worked and to verify that all overtime performed is done voluntarily.

Management Response: First Apparel agreed to pay the workers the remaining money owed to them for work performed on the July 28 holiday. Workers have since been paid the compensation they were owed. Management has also pledged to ensure that overtime and holiday work will be performed only on a voluntary basis, and to establish an effective mechanism for documenting any work performed.

3) Harassment and Abuse

Allegation

That employees have been subjected to verbal harassment by managers and supervisors.

Finding

a) *Verbal Abuse*

Findings: The Assessment Team found that factory managers and supervisors have frequently addressed workers in coarse, derogatory, and demeaning language, in violation of provisions of applicable codes of conduct that forbid the harassment and abuse of employees.

Recommendation: The WRC recommended that management provide training to

¹⁹ As indicated above, under Thai law, as stipulated in the Labor Protection Act of 1998, Section 5, "holiday" refers to a day fixed and upon which an employee enjoys a weekly or traditional holiday or his/her annual vacation.

²⁰ Thailand Labor Protection Act of 1998, Section 62 (2)

all supervisors in appropriate supervisory behavior. The WRC also recommended that the factory improve its current grievance procedure by establishing several channels of communication through which grievances regarding harassment and verbal abuse can be raised safely by all employees. The WRC's recommendations in this regard mirrored those the WRC provided regarding Far East (as discussed above in the section on Harassment Abuse at Far East): that the factory post the phone number of the senior level manager publicly within the factory so that workers are able to contact this individual if the need arises while management is away from the facility; and that management should schedule regular (e.g. monthly, or at the least quarterly) labor-management meetings with the factory's union representatives during which the progress of addressing these concerns can be reviewed, and new concerns, should they arise, can be brought forward.

Management Response: Management agreed to take the recommended actions. A training session on harassment and abuse for supervisors and production employees at First Apparel has since taken place. LS&CO helped to review and strengthen the curriculum for this training.

4) Occupational Health and Safety

Allegation

That the factory unreasonably restricts access to the restroom facilities.

Finding

a) *Restrictions on restroom access*

Finding: The Assessment Team found that workers are required to use tokens in order to access the factory's toilet facilities.

Recommendation: The WRC stressed that management should discontinue this practice immediately and allow workers free access to bathroom facilities whenever they need them.

Management Response: Management agreed to revoke the token system and provide workers with unrestricted access to the restroom facilities.

Appendix

Members of WRC Assessment Team for Far East and First Apparel

Voravidh Chareonloet

Dr. Voravidh Chareonloet is an Associate Professor in the Faculty of Economics at Chulalongkorn University, Bangkok, Thailand. Dr. Voravidh Chareonloet has also done extensive research and published several articles regarding Occupational Health and Safety issues in Thailand.

Bent D. Gehrt

Mr. Gehrt is the WRC's Investigator in Thailand.

Bundit Thanachaisethavut

Mr. Bundit Thanachaisethavut is the Coordinator and Labor Rights Researcher at the Arom Phongpangan Foundation a well-respected and long-standing nongovernmental organization in Bangkok, Thailand that does extensive research into labor, economic and political trends in Thailand.

Agatha Schmaedick

Ms. Schmaedick is the WRC's Field Director for Southeast Asia.

Sombun Srikhamdokcare

Mrs. Sombun Srikhamdokcare is a former textile mill worker and the founder and current Director of the Council of Work and Environment Related Patient Network of Thailand (WEPT), one of Thailand's first nongovernmental organizations to specialize in Occupational Health and Safety issues.