



International Institute for  
Trade and Development

# Labour Standards and Trade:

The Case of Thailand



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**by**

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## **Abstract**

The issue of labour standards and trade has become increasingly important in the international trade arena. Hence, research on trade and labour-related policies is highly important to governments of developing countries and other important stakeholders, such as companies and their workforce. Consequently, this research project on “Labour Standards and Trade: the Case of Thailand” aimed to achieve three main objectives:

- 1) Studying various international labour standards adopted by Thailand;
- 2) Examining conditions and problems of different labour standard practices in general and in selected industrial sectors; and
- 3) Making recommendations for future public policy and practices concerning labour standards and trade.

The research was carried out between June 2007 and September 2008 by gathering information from both local and international resources, interviewing representatives from the public sector, and organising focus groups with worker representatives from various industrial sectors. Moreover, compliance with labour standards in the textile and food industries was studied by conducting face-to-face interviews with representatives of different business enterprises.

Main findings can be summarised as follows:

1. Thailand has continuously complied with International Labour Standards of the International Labour Organisation (ILO) since this organisation came into existence. However, Thailand has only ratified 14 ILO conventions which are considered lower than the average number of ratifications of ILO standards in Asian countries (the average number is 15).

2. The level of compliance with codes of conduct by exporting business enterprises is still low accounting for only 5% of all enterprises.

3. In some companies involved in this research, compliance with codes of conduct was mainly driven by the expectation to acquire purchase orders from foreign brands. This illustrates that compliance was not based on voluntary acts promoting sustainable practices. However, from evidence-based research it can be concluded that the enterprises benefit rather than suffer by complying with codes of conduct even though such compliance may have an impact on production costs.

4. The Thai Labour Standard TLS 8001-2003 was initiated and funded by the Thai government. This standard is supplementary to other labour standards which were already put in place by Multinational Corporations (MNCs). Thai enterprises felt the urge to join TLS 8001-2003 in order to learn and prepare for compliance with other codes of conduct. Nevertheless, the number of businesses that have joined TLS 8001-2003 is relatively small given the large number of export-oriented enterprises in Thailand.

5. Businesses in highly competitive industrial sectors tend to put in place more advanced labour standards. The highest level of compliance with codes of conduct was

found in the textile industry while compliance in the food processing industry remains limited.

6. Several issues were identified with respect to compliance with labour standards. One major issue arises is the contradiction that exists between the intention to reduce working hours and workers' aspiration to generate as much income as possible by working longer hours. Additional issues concern job discrimination, enforcement of salary increases, welfare benefits, and employer sanctions on their workers which violate labour law. The above-mentioned job discrimination affects trade union members, migrant workers, and contract workers alike.

7. Thai societal stakeholders are not proactive enough with regards to promotion of corporate social responsibility in the business sector. Labour issues are regarded as being of minor importance compared to environmental and community issues. Participatory social and labour right movements at a global level support gaining momentum and provide integrated approaches for promoting social corporate responsibility.

### **Recommendations**

Main recommendations in terms of public policy guidance include:

- Compliance with ILO labour standards, which are relevant to Thai socio-economic development, must be vigorously promoted and enforced by the Thai government;
- A governmental labour inspection system is recommended to be put in place in order to be consistent with commercial labour inspection system;
- Corporate stakeholder networks should be supported to monitor the progress of labour standards and social corporate responsibility in the international and national business sector;
- Thai labour standards should promote and enforce social corporate responsibility;
- Consumer rights organisations must be strengthened and be enabled to examine producer compliance with labour standards.

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## **Chapter 1**

### **Introduction**

#### **1.1 Significance of Research Issues**

Debates on “Labour Standards and Trade” have intensified over the past ten years. Various international and national labour standards that represent improvements of workers’ quality of life have been created by several trade groups and have been supported by governments of developed countries together with non-governmental organisations working on the labour protection field.

The linkage between improvement of labour standards and trade is mainly emphasised by developed countries in the West aiming at gaining support by developing countries for a balance between the negative effects of the accelerated capitalist globalisation and trade-unionism at the international level. However, the idea of linking labour standards to trade is opposed by the business sector and governments in developing countries, because they are afraid that these new labour standard practices are hidden protectionism and create new trade barriers.

There is a general assumption that international brands have changed their systems of commissioning purchase orders to sub-contractors. Private businesses in developing countries which fail to comply with certain labour standards may, in the future, be excluded from obtaining purchase orders. This may result in lower foreign direct investments to the country (FDI) leading to reduced exports from developing countries which has severe impacts on their long-term economic development. The criticism of the above mentioned linkage between labour standards and trade states that, though being beneficial to workers, there is little assistance enabling developing countries to comply with such standards. Labour legislation in developing countries is typically weak in terms of effective labour rights protection and enforcement of the laws. Consequently, the workforce in developing countries often face severe labour-related problems such as, extremely low wages, having to work long hours, child labour, and the lack of trade unions and other supporting organisations. Hence, working conditions and basic welfare benefits are far from being adequate.

Employers are aware that international labour standards far exceed regulations stipulated by Thai labour law. Nevertheless, many businesses fail even to comply with the minimal requirements specified in the Thai labour law. Many investors are reluctant to address labour law compliance seriously. They are uncertain whether compliance with more advanced labour standards will enhance their profitability and whether it was worth investing in improving labour practices in their workplace. Labour standards are regarded as one of the main reasons of the rising labour costs. Consequently, many export-led employers oppose international labour standards. They are afraid of being less competitive on the global market due to an increase in production costs. Thai employers seem to be threatened to lose market shares, either by compliance or non-compliance, because foreign purchasers are not only motivated by sales prices alone. Nowadays, compliance with international labour standards is another sales argument.

Most Thai companies which serve the Thai domestic market are not interested in compliance with international labour standards, because they cannot even comply with the Thai national labour law. Subsequently, it is very challenging for Thai business enterprises to understand the benefits of labour standard compliance. In order to make labour standards and trade beneficial to the Thai enterprises, there should be more public policy guidance. Hence, the research team hopes that this research will be treated as baseline information that offers some insights to the government, Thai exporters, and other developing countries in developing policies and measures to solve labour issues in an appropriate way. Ultimately, this research aims to make Thai businesses more competitive in the global market.

## **1.2 Research Objectives**

- 1) To study labour standards currently practised in Thailand
- 2) To examine conditions and problems of different labour standard practices in general and in various industries
- 3) To suggest guidelines for public policy development and practices concerned with labour standards and trade in the future.

## **1.3 Scope of Research**

The research aims to:

- 1) Study labour standards currently in practice in Thailand with a special focus on the ILO Core Labour Standards;
- 2.) Analyse labour standards and codes of conducts at the corporate level in selected industrial sectors in Thailand and in major MNCs highlighting its specific problems and barriers to compliance with such labour standards; and
- 3) Evaluate the situation of compliance with Thai labour standards in selected export-led industries, such as the garment and food processing industries looking at indicators, such as working hours, wages, shift-work, breaks, holidays, overtime pay, benefits and welfare provisions.

## **1.4 Research Methodology**

The research focuses on gathering the following sets of information:

### **1.4.1 Secondary Data Collection and Analysis**

- 1) Review Thai legislation and other documents relevant to ILO Core Labour Standards
- 2) Review labour standards and codes of conduct in Thailand as introduced by state agencies, international organisations, and non-profit organisations.
- 3) Review of literature, studies and researches carried out by the public and private sector in developed and developing countries which have been affected by international trade and trade barriers.

### **1.4.2 Primary Data Collection and Analysis.**

Primary data are gathered by conducting qualitative in-depth interviews with individuals representing public and private sectors such as:

- 1) Representatives from the Thai Ministry of Labour in order to investigate labour standards currently in practice in Thailand;



2) Representatives from the International Labour Organisation (ILO) in Thailand in order to study future prospects for Thailand in adopting and complying with labour standards;

3) Thai business operators/exporters representing the garment/textile and food processing industries in order to explore impacts of labour standards requirements in developed countries on Thai businesses and difficulties interviewees experienced in complying with these requirements; and

4) Thai trade-union leaders and workers in selected industries in order to analyse the problems with which Thai workforce is confronted looking at issues such as wages, overtime pay, working hours, occupational safety, holidays, leave, benefits, and welfare. Seven focus groups were conducted with fifteen participants each, totalling 105 attendants.

### **1.5 Research Implementation**

This research ‘Labour Standards and Trade: the Case of Thailand’ is part of the research project titled “Labour Standards and Trade: Obstacles and Opportunities for Development”, which comprises six studies in total, as stated in the introduction to the Project Chapter. The project employs a ‘research network’ model which requires the research team members to meet on a regular basis in order to share experiences and information gathered during the research process. Furthermore, these meetings provided a forum for the research team to offer insights and recommendations to one another’s projects.

The following chapters discuss the current labour standards situation in Thailand and the importance of codes of conduct to selected Thai export-led industrial sectors. The report culminates with the authors’ recommendations on improvements of the current Thai labour law legislation and other adaptation measures to meet international labour standards.

## **Chapter 2**

### **Labour Standards: Essence and Nature of the Problems in Practice at the National Level**

Advancement of socio-economic development is an aspiration of any country. Labour standards and trade have been discussed for a long time and will continue to be an important element of international trade relations in the future.

In this section of the report, we present findings from the review of previous research by Thai and foreign researchers on national and international labour standards. In that context, special attention is paid to the point of labour standards and its impact on trade.

#### **2.1 Levels of Labour Standards**

Labour Standards can be broken down into at least eight levels<sup>1</sup> which include:

- 1) Labour Standards at the international level;
- 2) Labour Standards at the regional level;
- 3) Labour Standards at the business group and collaborated institutions level;
- 4) Labour Standards at the national level (domestic laws and collective agreements between national actors and Thai labour standards);
- 5) Labour Standards at the industrial level;
- 6) Labour Standards at the occupation level;
- 7) Labour Standards at the enterprise and corporate group level (codes of conduct on labour or employment condition of an enterprise); and
- 8) Labour Standards at the local and activity group level.

Among existing labour standards, the ILO labour standards are the most important ones. They play a significant role in guiding and influencing the development of Labour Standards at different governance levels in various regions, sub-regions and countries. Groups of countries, which started collective political and economic activities in their region or sub-region, are likely to create cooperative regional labour standards, such as the European Union Labour Standards, Nordic Labour Standards, Agreements of the African and Caribbean Group. Labour Standards at the trade cooperation level or industrial level were driven by the consumer protection movement, labour movement and manufacturers' associations in the developed countries. Labour Standards in each country exist in a form of labour laws, mainly based on the ILO International Labour Standards. However, some countries adopt central labour standards that are not in a form of labour law legislation in order to make it more suitable to their context. In the case of Thailand, for example, labour standards are under the administration of the Ministry of Labour. Labour standards at the industrial level are often the product of the ILO Industrial Committee's activities. This level of labour standards is of minor importance and is on the same level of the interpretation of the content of conventions or recommendations and decision of decent practice procedures. This also depends on the resolution of such committee. Labour Standards at the occupational level is similar to those of the industrial level, but they are used with different occupations issued by particular occupational associations, based somewhat on the ILO Labour Standards. Labour Standards or Codes of Conduct of major

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<sup>1</sup> Sorted by the researcher through investigation of various sources of documents on labour standards over the past years.

multinational corporations have been developed from ILO principles which can be integrated into a particular Code of Conduct of certain companies. In practice, however, differences exist between private codes of conduct and those set out by the ILO, although the general details are in line with the main principles of the ILO.

## **2.2 International Labour Organisation and International Labour Standards**

### **2.2.1 Scope of International Labour Standards**

The International Labour Organisation has issued International Labour Standards, which are considered to be International Labour laws, in the form of Conventions and Recommendations. In addition, the ILO has issued Protocols, Declarations and Codes of Practice<sup>2</sup>. All of these laws can be integrated and ILO member countries are required to take action by attending the Annual General Meeting as a formal international forum to discuss and adopt new international rules. Moreover, resolutions and decisions of Labour Standards Committee and various Industrial Committee members can be part of supplementary advisory documents of Labour Standards as well<sup>3</sup>.

The ILO provides mostly qualitative criteria and some quantitative criteria for different countries to refer to when enacting rules and laws on labour as minimum standards. (Many countries regard the minimum ILO Standards as the maximum requirements since their development is still at a very basic level; other countries, however, see the ILO Standards as their minimum labour standards). Examples of quantitative and qualitative criteria include ILO Convention No. 144 concerning tripartite consultation, which qualitatively stipulates that the government, employers, and employees shall jointly consult with each other on issues that will promote Labour Standards compliance, government response to ILO questions and presentation of labour report at the ILO Annual Conference. Convention No. 105 concerning Social Security (minimum standards), however, provides qualitative and quantitative guidelines by outlining workers' benefits related to illness, unemployment, old age pension, family assistance, and disability. This shall apply to at least 50 percent of all the employed workers and the illness coverage shall cover spouse and two children of the social security members. This benefit shall be in a form of income (45 percent of the previous income). ILO Convention No. 138 concerns Minimum Age of Employment stipulating that child workers must be at least 15 years of age.

International Labour Standards are the primary representation of the International Labour Laws providing basic obligations on the freedom of individuals. In addition, International Labour Standards reflect human rights aimed at achieving freedom, equality, economic security, and human dignity<sup>4</sup>. These standards function as international

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<sup>2</sup> See the argument in Valticos, Nicolas "International labour standards and human rights: Approaching the year 2000", International Labour Review, Vol. 137 (1998), No. 2, pp. 135-147.

<sup>3</sup> See the argument in Valticos, Nicolas "International labour standards and human rights: Approaching the year 2000", International Labour Review, Vol. 137 (1998), No. 2, pp. 135-147.

<sup>4</sup> The Importance of Relations of ILO Labour Standards and the Principles of Human Rights, confirmed by Rene Cassin, principal drafter of Human Rights Declaration of the United Nations 1948 and the implementation of the ILO are in accordance with human rights principles have been practiced and confirmed the person who used to take the post of ILO Secretary General – see additional information in Valticos, Nicolas (ibid).

framework of the relations of different forms of employment including 17 categories<sup>5</sup>: 1) Freedom of Association; 2) Collective Bargaining; 3) Freedom of Workers (abolition of forced labour); 4) Equal Opportunities and Treatment; 5) Protection of Child and Youth Labour; 6) Employment Policies; 7) Human Resources Development; 8) Employment Security; 9) General Working Condition (wage, working hours, etc.); 10) Occupational Health and Safety; 11) Social Security; 12) Labour Administration and Inspection; 13) Labour Relations; 14) Seafarers; 15) Workers in the Fishery Industry; 16) Sea Port Workers; and 17) Others (including agricultural workers, nursing, workers in the hotel and hospitality, and home workers).

### **2.2.2 Ratification of International Labour Standards**

A number of countries have ratified the ILO Conventions according to the degree of readiness to adapt to the required standard within their domestic context. Each country is requested to seek approval by its respective national parliament before formally submitting the decision to the Secretary-General of the International Labour Organisation (Chokchai Suttawet, 2006).

Global efforts to establish international labour standards over the past decade include three major events: the Global Summit for Development in Copenhagen, Denmark in 1995; the WTO Ministerial Conference in Singapore in 1996; and the Declaration of Basic Rights to Work of the ILO in 1998. All these international events have supported the ratification process in many countries. The ILO Core Labour Standards consist of eight Conventions and cover four principles<sup>6</sup>:

- 1) Freedom of Association and Recognition of Rights to Collective Bargaining;
- 2) Eradication of All Forms of Forced Labour;
- 3) Abolition of Child Labour; and
- 4) Elimination of Occupational and Employment Discrimination.

These four areas can be divided into two main groups: (1) Basic human rights group and (2) Enhancing labour market group which gives workers more freedom . (Addo, 2002: 288).

The eight ILO Conventions considered as Core Labour Standards include:

1. Convention No. 87 (1948): Freedom of Association and Protection of the Right to Organise;
2. Convention No. 98 (1948): Right to Organise and Collective Bargaining;
3. Convention No. 29 (1930): Forced Labour;
4. Convention No. 105 (1957): Abolition of Forced Labour;
5. Convention No. 111 (1958): Discrimination (Employment and Occupation);
6. Convention No. 100 (1951): Equal Remuneration;
7. Convention No. 138 (1973): Minimum Age; and
8. Convention No. 182 (1999): Worst Forms of Child Labour.

Currently (2008), three-quarters of ILO members have ratified the eight Conventions. In correct order, the conventions with the highest number of signatories are conventions 29, 105, 111, 182, 100, 98, 138 and 87. According to their level of ratification, continents can be ranked as follows: Europe, America, Africa, and Asia.

<sup>5</sup> International Labour Office (2002) International labour standards. A global approach 75<sup>th</sup> anniversary of the Committee of Experts on the Application of Conventions and Recommendations. ILO: Geneva. (categorisation can be done in other forms, depending on the purpose of use).

<sup>6</sup> Committee on Monitoring International Labour Standards (2004) *and* Crispin Rigby, *Editor*, (2004).

**Table 2.1: Ratification of the ILO Conventions Globally**

Number of ratifying countries by continent		Freedom of Association and Collective Bargaining		Abolition of Forced Labour		Elimination of Discrimination (Employment and Occupation)		Abolition of Child Labour	
Continent	No.	C 87	C 98	C 29	C105	C100	C111	C138	C182
Africa	53	48	52	53	53	50	53	46	49
America	35	33	32	33	35	33	33	29	34
Asia	42	17	23	35	31	30	29	26	33
Europe	51	50	51	51	51	51	51	49	49
Total	181	148	158	172	170	164	166	150	165

Source: <http://www.ilo.org/ilolex/english/docs/declworld.htm>

Member countries which have ratified the conventions are requested to report the advancement of implementation to the ILO. Thailand was scheduled to report its progress in convention implementation in 2006, but instead became one of the forty countries that have failed to fulfill their reporting obligation. (Report of the Committee of Experts on the Application of Conventions and Recommendations, 2007; <http://www.ilo.org/ilolex/gbe/ceacr2007.htm>). Thus, the ILO concluded that these countries may need further support and the ILO was willing to provide assistance to rectify the problems, such as sending experts to the countries to offer advice.

### **2.2.3 International Labour Standards and Labour Standards for Trade**

Expansion of the role of ILO Labour Standards comprises three principles:

- 1) Encouraging ILO member countries to ratify important Conventions by pressing state agencies, employers' associations, or employees' organisations to work towards ratification, with the hope that Labour Standards will contribute to the socio-economic development of the country in the areas of ratification;
- 2) Responding to the demand for integrating labour standards into trade policies. This new role of the ILO arose out of the increasing pressure from the international labour communities, especially the U.S. to link labour standards to international trade, the latter of which is the jurisdiction of the World Trade Organisation (WTO); and
- 3) ILO Labour Standards are supposed to be applied under the eight ILO Conventions concerning private institutions and the business sector at the industrial sectors and multinational corporations' level.

However, there may be a huge gap between international and national labour standards or codes of conduct in various countries. ILO standards embody guiding principles for passing new national standards. If a country commits to the ILO standards, it must ensure that new national legislation is implemented nation-wide. The lack of capacity and interests of national business sectors may have to be addressed during the adaptation process.<sup>7</sup>

<sup>7</sup> Interview with Mr. Tim De Meyer, Labour Standards specialist, the ILO for Asia and the Pacific – 18 December 2007.

For example, the ILO Convention endorses freedom of association only in the form of trade union establishment, whereas under the Thai Labour Standards 8001-2003 (TLS 8001-2003), the establishment of workplace welfare committees according to the Labour Protection Act 1998 is considered sufficient to be recognised as a form of freedom of association, even though the workplace welfare committees have no power in the collective bargaining process, unlike the trade unions.

The United Nations, as the principal organisation of all inter-governmental agencies such as the ILO, strongly supports the ILO Labour Standards. In 2000, then UN Secretary General Mr. Kofi Annan initiated that business enterprises, UN agencies, labour organisations, civil society, and governments of member countries to jointly develop an international guideline called the UN Global Compact (UNGC)<sup>8</sup> which consists of ten issues and is categorised into 4 groups as follows:

- 1) Chapter 1 on Human Rights, comprising two major points: 1.1) support and respect of human rights and 1.2) no human rights violation;
- 2) Chapter 2 on labour standards, comprising four points: 2.1) freedom of association of workers and recognition of the right to collective bargaining; 2.2) eradication of all forms of forced labour; 2.3) effective abolishment of child labour and 2.4) elimination of workplace discrimination;
- 3) Chapter 3 on the environment, comprising three points: 3.1) support of environmental impact monitoring, 3.2) initiation of projects and activities promoting environmental responsibility, 3.3) promotion of the development and utilisation of environmentally-friendly technologies; and
- 4) Chapter 4 on Anti-Corruption, comprising one point: resisting all forms of corruption<sup>9</sup>. In October 2006, the UNGC, which was formed to enhance decent business practices, was merged with Global Reporting Initiative (Global Reporting Initiative) – a standard for sustainable development. Cooperation between inter-governmental organisations, the private sector, and the public continues which strengthens the advancement of the initiative. It was reported that in 2007 over 3,000 companies and organisations have joined the UN Global Compact initiative.

The corporate social responsibility trend has gained momentum and has recently entered the international system of quality management – the International Organisation for Standardisation (ISO). This organisation is seeking ways to integrate industrial standards to labour standards and to various dimensions of social responsibility. Consequently, ISO member countries have set up a technical working group to develop a new standard called “International Standards on Social Responsibility” (ISO 26000 – Social Responsibility), which is a non-certification voluntary guidance system expected to be in force by 2009. However, the draft version of ISO-26000 by Thailand, which follows the guidelines set by the technical working group of the ISO and to be incorporated into the drafts produced by

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<sup>8</sup><http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>, the Thai Industrial Standard Institute, Kenan Institute of Asia, Study report on readiness of Thai organisations and agencies to endorse compliance with international standards concerned with social responsibility (ISO 26000 – Social Responsibility), December 2007, Kenan Institute of Asia.

<sup>9</sup> [http://www.unglobalcompact.org/NewsAndEvents/news\\_archives/2008\\_01\\_22.html](http://www.unglobalcompact.org/NewsAndEvents/news_archives/2008_01_22.html).

other member countries before becoming effective, includes 7 main points and other sub-points, which are:<sup>10</sup>

1) Organisational Governance

- 1.1) Practice in line with the laws and regulations of organisation;
- 1.2) Accountable responsibility
- 1.3) Transparency
- 1.4) Ethical practice
- 1.5) Awareness of stakeholders

2) Human Rights

- 2.1) Civil rights and political rights
- 2.2) Social, economic and cultural rights
- 2.3) Human rights of the vulnerable groups
- 2.4) Basic rights at the workplace

3) Labour Practices

- 3.1) Employment relations
- 3.2) Employment conditions and social protection
- 3.3) Dialogue between state representatives, employers, and employees
- 3.4) Occupational health and safety
- 3.5) Human resource development

4) Environment

- 4.1) Environmental management in organisational operation and production of goods and services
- 4.2) Promotion of sustainable production and consumption
- 4.3) Sustainable use of resources
- 4.4) Climate change management
- 4.5) Benefits and values of ecological systems

5) Fair Operating Practices

- 5.1) Counter corruption and bribery
- 5.2) Responsible political participation
- 5.3) Fair competition
- 5.4) Promote social responsibility among supply chains
- 5.5) Respect rights and property (including physical and intellectual properties as well as those not specified in the laws)

6) Consumer Issues

- 6.1) Operating guidance, marketing methodology, and fair provision of information
- 6.2) Protection of health, safety, and security of consumers
- 6.3) Merchandise recall mechanism
- 6.4) Sourcing and development of goods and services that is beneficial to society and environment
- 6.5) Service and support for consumers
- 6.6) Protection of personal information of consumers
- 6.7) Access to necessary goods and services

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<sup>10</sup> Thai Industrial Standard Institute and Kenan Institute of Asia (ibid)



- 6.8) Sustainable consumption
- 6.9) Awareness raising and educating consumers accurately
- 7) Social development
  - 7.1) Participation in social development
  - 7.2) Participation in economic development
  - 7.3) participation in community

Although these guidelines cover a wide scope, their actual levels of implementation require further assessment.

### **2.3 ILO Labour Standards in the Thai context**

#### **2.3.1 Ratification of the ILO Labour Standards of Thailand**

Thailand ratified very few ILO Conventions. However, the country has modified several ILO conventions and adapted them to its own law. Still, Thailand has not followed nor complied with several core ILO labour standards for a long time.<sup>11</sup>

By not ratifying ILO conventions, Thailand was not subject to official ILO inspection on issues in question, as in the case of ratification, such as the issues of trade unions, employer associations, collective bargaining, social insurance (under the framework of social security), migrant workers, labour protection, and various employment conditions. Therefore, it is fair to say that international labour standards have significant impacts on Thai labour law. However, as a member of the ILO, Thailand cannot avoid being inspected by the ILO in certain areas where violations of ILO conventions are alleged to exist, even though the country may not have ratified those particular ILO conventions. These inspections often follow complaints filed with the ILO by some labour organisations in Thailand.<sup>12</sup>

Thailand has ratified fifteen ILO Conventions and revoked one Convention which was in fact revoked by the ILO itself (Convention 104: Abolition of Penal Sanctions (Indigenous Workers)), making the total number of ratified convention as 14, which is rather a small figure. In addition, Thailand has adopted 10 ILO recommendations as listed in Table 2.2.

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<sup>11</sup> Nikom Chantarawitoon (1988) Ibid, 146-149.

<sup>12</sup> Over the past 10-15 years, the ILO Committee on Freedom of Association has inspected Thailand on such cases as ITV Dismissal of 21 employees following union formation, Privatization of Bangchak Petroleum, the closure of a state enterprise labour case and dissolution of state enterprise workers' union during the National Peace Keeping Council (NPKC).

**Table 2.2: ILO Labour Standards Ratified (Conventions) and Adopted (Recommendations) by Thailand<sup>13</sup>**

Convention and Ratification			Recommendation and Adoption	
Convention number and year of issuance	Name	Year of ratification	Number of recommendation and year of adoption	Name
C14 - 1921	Weekly Rest (Industry)	5 Apr 1968	R18 - 1921	Weekly Rest (Commerce)
C19 - 1925	Equality of Treatment (Accident Compensation)	5 Apr 1968	R105 - 1958	Ships' Medicine Chests
C29 - 1930	Forced Labour	26 Feb 1969	R107 - 1958	Seafarers' Engagement (Foreign Vessels)
C80 - 1946	Final Articles Revision	5 Dec 1957	R108 - 1958	Social Conditions and Safety (Seafarers)
C88 - 1947	Employment Service	26 Feb 1969	R117 - 1962	Vocational Training
C104 - 1955	Abolition of Penal Sanctions (Indigenous Workers)	29 Jul 1964	R122 - 1965	Employment Policy
C105 - 1957	Abolition of Forced Labour	2 Dec 1967	R126 - 1966	Vocational Training (Fishermen)
C116 - 1961	Final Articles Revision	24 Sep 1962	R128 - 1967	Maximum Weight
C122 - 1964	Employment Policy	26 Feb 1969	R129 - 1967	Communications within the Undertaking
C123 - 1965	Minimum Age (Underground Work)	5 Apr 1968	R130 - 1967	Examination of Grievances
C127 - 1967	Maximum Weight	26 Feb 1968		
C100 - 1951	Equal Remuneration	8 Feb 1999		
C182 - 1999	Worst Forms of Child Labour	26 Feb 2001		
C138 - 1973	Minimum Age	11 May 2004		
C159 - 2007	Vocational Rehabilitation and Employment (Disabled Persons)	9 Jun 2006		

Currently, adoption of recommendations does not require prior permission from the ILO, as was the case in the past. However, the Thai government notified the ILO in 2006 that Thailand was interested in adopting the recommendation No. 195 on Human Resources Development (Human Resource Development Convention, 2004: <http://www.ilo.org/ilolex/gbe/ceacr2007.htm>).<sup>14</sup>

Thailand has ratified five of the Core Labour Standards, namely:

- 1) Convention No. 29 (1930)- Forced Labour;
- 2) Convention No. 105 (1957)- Abolition of Forced Labour;
- 3) Convention No. 100 (1951)- Equal Remuneration;

<sup>13</sup> Chokchai Suttawet, 2006

<sup>14</sup> <http://www.ilo.org/ilolex/gbe/ceacr2007.htm>.

- 4) Convention No. 182 (1999)- Worst Forms of Child Labour; and
- 5) Convention No. 138 (1949)- Minimum Age (Employment)

Three Core Labour Standards that have not been ratified are:

- 1) Convention No. 87 (1948)- Freedom of Association and Protection of the Right to Organise;
- 2) Convention No. 98 (1949)- Right to Organise and Collective Bargaining; and
- 3) Convention No. 111 (1958)- Discrimination (Employment and Occupation)

Convention No. 111 is related to the quality of life of workers, which is a non-political issue. That means that its ratification should not be too problematic to achieve, especially when this is supported by the 2007 Constitution of Thailand. However, Conventions 87 and 98 have significant implications in terms of bargaining and political power between workers, state, and investors. Consequently, the government has been hesitant to ratify some of the conventions of the ILO, of which Thailand has long been a member.

Although the government has not ratified the three remaining conventions, it has nonetheless adopted some aspects of the conventions into the country's labour laws, which at first glance, seems to indicate the government is serious about dealing with such labour problems, when, in fact, there is no actual commitment to implementation by the government. This is because adopting ILO labour standards without official ratification is similar to 'fake compliance' i.e. occasional compliance or compliance that differs from the set standards. This makes the ILO unable to officially inspect Thailand's compliance. This topic will be discussed later in the chapter.

Moreover, during the mid 1990s, the Ministry of Labour once exhibited an interest in ratifying Convention 155 on Occupational Safety and Health (1984), which is considered to be a very important convention despite its not being part of the 8 Core Labour Standards Conventions. However, the attempt to ratify this convention has faded away, with an emergence of the new ILO Convention on Occupational Health and Safety to be introduced in the near future.

### **2.3.2 Compatibility between Thai Labour Laws and ILO Labour Standards**

Thailand has complied with the ratified Conventions with little deviation from the labour standards set in them. However, as stated above, the problems arise when considering compliance with the standards set in the conventions that Thailand has not ratified. For example, the promotion of the establishment of the Workplace Welfare Committee instead of promoting the establishment of trade unions under the Labour Protection Act 2541; the requirement under the Labour Relations Act B.E.2518 that trade unions and employer organisations be registered with the government even though the ILO conventions do not contain such requirements; permission for private and state enterprise workers to form trade unions but the same right is not granted to government officials even though this is against the requirement stipulated in ILO Convention 87; and finally, specific requirements on the formation of trade unions among the police and soldiers. Nevertheless, the problems of public servants' labour rights will soon be resolved with the Thai Constitution 2007, which grants the right to government officers and public servants to organise, as in the case of workers in other sectors. However, this requires changing the Labour Relations Act B.E. 2518 to be in line with the 2007 Constitution. As for the rights of soldiers and the police, there needs to be an issuance of specific law additional to the existing Labour Relations Act 2518 on the issue of trade union establishment and collective bargaining. Above the stipulation by the Constitution and the Laws, formation of trade unions among civil

servants and government officials depends on conditions set out within the government system, and on the readiness of government officials themselves.

### **2.3.3 Problems with Ratification and the Role of Thailand in the ILO Labour Standards**

Thailand has officially ratified fourteen Conventions (with Convention 123 withdrawn) and officially adopted at least ten Recommendations (as demonstrated in Table 1). The number of ratified conventions is lower than the average number of 15 conventions ratified by countries in South East Asia. The below-than average ratification rate reflects collective problems among developing countries. ILO specialists (items 1-4)<sup>15</sup> and researchers from US Research Council (items 5-7)<sup>16</sup> have compiled the explanations to the problems as follows:

- 1) Employer and employee organisations fail to raise problems or adequately express their views on issues of concern at the ILO conference. As a result, discussions at the ILO conference do not reflect the true needs of developing countries;
- 2) Incomplete replies to ILO queries by member countries that may stem from the complexity of the issues being asked or the lack of understanding of government officials in charge of the matter;
- 3) Ineffective participation of each party in various ILO committees;
- 4) Inadequate regional cooperation among ILO member countries along with the lack of regional mechanisms or agreements that would enable countries to effectively solve the problems in a collaborative manner;
- 5) The failure of the ILO Annual General Meeting to recognise the need for greater flexibility in the requirements of each convention to be granted to developing countries in order to induce a greater level of ratification by the developing countries;
- 6) The lack of clear meaning for labour standards and clear indicators that identify the extent to which labour standards must be implemented for countries to be considered compliant;
- 7) The problem of capacity of state agencies, such as the lack of resources required for monitoring companies' compliance with labour standards;
- 8) The lack of accurate, reliable, and sufficient information necessary for the evaluation of compliance with standards and enforcement of the relevant laws; and
- 9) A changing and unpredictable environment affects compliance with labour standards.

In conclusion, not only is Thailand slow in implementing the few conventions it ratified, but there are also several problems related to the actual enforcement of labour standards, as listed above.

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<sup>15</sup> Nikom Chantarawitoon (1988), 149-150.

<sup>16</sup> Committee on Monitoring International Labour Standards (2004).

## **2.4 Labour Standards at the Level of Trade Cooperation and Collaborated Institutions: Essence of the Standards and Strengths and Weaknesses of Standards Implementation in Developing Countries**

There are two kinds of standards:

- 1.) Labour standards created by businesses groups or industry groups; and
- 2.) Labour standards created by civil society groups in developed countries that attempt to expand the implementation of such standards to developing countries.

**2.4.1 Social Accountability 8000 (SA 8000)** is a new standard developed in the United States and is the first labour standard established by the private sector. The standard focuses on workers' protection through 9 indicators: 1) child labour; 2) forced labour; 3) occupational health and safety; 4) freedom of association and collective bargaining; 5) discrimination; 6) disciplining of workers; 7) working hours; 8) remuneration; and 9) management system. Most requirements are in line with the ILO Labour Standards. However, the main purpose of creating this standard is for the benefits of international trade by establishing fairness in workers' utilisation between various trading partners. The standard is certified by Social Accountability International.

**2.4.2 Workplace Code of Conduct established by Fair Labour Association (FLA)** with a wide range of membership including producers, traders, educational institutions, and human rights organisations. The FLA Code of Conduct contains 9 indicators: 1) forced labour; 2) child labour; 3) harassment and torture; 4) discrimination; 5) occupational health and safety; 6) freedom of association and collective bargaining; 7) wage and benefits; 8) working hours; and 9) overtime pay

**2.4.3 Worker Rights Consortium (WRC)**, developed by human rights activists and educational institutions contains 10 indicators: 1) wages and benefits; 2) working hours; 3) severance pay and overtime pay; 4) child labour; 5) forced labour; 6) occupational health and safety; 7) discrimination; 8) violation or abuse; 9) freedom of association and collective bargaining, and 10) women's rights.

**2.4.4 Human Rights Standards of Worldwide Responsible Apparel Production (WRAP)** has 8 indicators: 1) child labour; 2) forced labour; 3) occupational health and safety; 4) working hours; 5) discrimination; wage and remuneration; 7) harassment and torture; 8) administration of management. Apart from this, there are four other indicators, including 1) environment; 2) compliance with customs procedures; 3) safety; and 4) compliance with laws and regulations at the workplace. Altogether, there are 12 indicators. The enforcement is mainly for the benefits of trade and fairness in employment of workers among companies in the United States.

**2.4.5 Electronic International Code of Conduct (EICC)** – labour standards of a group of electronic manufacturers has 7 indicators: 1) general requirements; 2) labour; 3) health and safety; 4) environment; 5) labour management system; 6) environmental management system and safety; and 7) ethics. In addition, there are 50 minor requirements that need to be inspected.

Apart from the above-mentioned standards, there are other labour standards for industrial groups such as ICTI Standards, BSCI Standards, BRC Standards, FWF Standards, ETI Standards, etc. which will be mentioned in Chapter 3.

Specific characteristics of labour standards or codes of conduct at the level of industrial groups depend on the type of organisation, and its membership. Various codes of conduct can be compared in Table 2.3 below.

**Table 2.3: Characteristics of Labour Standards**

<b>Responsible and Standard Certifying Organisation</b>	<b>Member</b>	<b>Characteristic of Standard</b>
SAI, Council on Economic Priorities Accreditation Agency (CEPAA)	NGOs, Governmental labour bodies (National Child Labour Committee (USA), Maquila Solidarity Network (Canada), Dole Food Company (USA), Bureau Veritas Quality International)	Labour rights standard, the first assessable standard
FLA, Fair Labour Association	Enterprises, Brand names, Consumer Groups, Labour Organisations, and US Universities are member, beginning with the White House (such as Adidas-Salomon, Eddie Bauer, GEAR for Sports, Joy Athletic, Liz Claiborne, Nordstrom Nike, Patagonia, Reebok, Phillips-Van Heusen, Polo Ralph Lauren and Zephyr Graf-X)	<ul style="list-style-type: none"> <li>• No pass or fail, but focusing on continuous improvement</li> <li>• No cost of examination</li> <li>• Publicise the examination results</li> </ul>
AAMA ( American Apparel Manufacturer Association)	Private organisations and apparel companies from the U.S. (such as Blue chip, Sara Lee Corporation, Jockey International, VF Corporation, Russell Corporation, OshKosh B'Gosh, Tropical Sportswear International, Gerber Childrenswear)	Core standards for the garment industry governing treatment of labour, factory conditions and environment, and customs system.
Worker Rights Consortium (WRC)	Colleges, universities, students, and labour specialists (120 colleges, and US universities such as University of California)	A process of monitoring factories producing goods for colleges, universities by requiring them to integrate compliance with to labour rights to their production process, and to conform to the principles set by the universities.
The Ethical Trading Initiative	Private organisations, labour groups, and brand names (such as Oxfam, International Confederation of Free Trade Unions, Levi Strauss, The Body Shop International, NEXT, Tesco)	A process of promoting good practices on labour to assure the working environment in the factory producing goods for the market in England meets the standard.

Source: Suriya Yawichian, Kenan Institute, Lecture on “Labour Standard”, July 2007 – February 2008.

Consensus among countries on whether or not adopting labour standards is beneficial to an economy cannot be reached, since assessing advantages and disadvantages of such adoption is subject to each country’s perspective and country-specific situations. In general, we found opposition to the adoption of labour standards by developing countries, and support of the standards by developed countries. Developed nations support the use of

labour standards as a tool to regulate international trade, the practice of which will increase costs of production in developing countries, and will put the prices of imports from developing countries more at par with those of their own. However, most developing countries do not favour this measure because they view inclusion of labour standards in trade regulations as a form of protectionism. Regardless of the respective positions, the use of labour standards in international trade can be seen as a perfect compromise between capitalism and trade unionism, in that capitalism flourishes while, at the same time, the workers' quality of life improves. As a result, most labour organisations the world over tend to welcome rather than oppose to the use of labour standards. However, the government tends to place an emphasis on the use of labour standards in export-oriented enterprises compared to those that produce for domestic markets. This creates a problem of a double standard in that workers in the same country are treated differently (Chokchai Suttawet, 2004).

Past literature on impacts of the adoption of labour standards on the success of and obstacles to exports reveal both arguments on advantages and disadvantages of labour standards (Martin and Maskus 1999, Mah 1997, Stern and Terrel 2003 in Niramorn Suthamkij, 2007 (pp 117 -169)). Success of its adoption depends on how perfect market competition is; for example, in the case of a perfectly competitive market, promotion of collective bargaining for workers will help expand the export. However, some studies found that encouraging freedom of association will reduce a country's competitiveness. Improvement of labour standards may raise the costs of production only by a small percentage, but whether or not that will lead to an increase in productivity depends on the type of labour standards being employed (e.g. the elimination of the use of child labour may raise both productivity and costs of production). The cultures and political situations in developing countries, together with the weakness of institutions that oversee labour standards implementation within the countries, may hinder the countries' compliance to labour standards. As a result, the workers who benefit most from the use of labour standards as a trade instrument are those in the export industries and those in the formal employment sector instead of workers in the informal economy.

The presentation of both pro-and con-arguments on the use of labour standards in trade reveals the challenge posed to all countries in the world on how to persuade their own citizens to see the importance of labour standards. In principle, promotion of the ILO Labour Standards and Decent Work should complement each other. That is, decent work should promote labour productivity since workers are adequately protected in terms of opportunity to generate income. Social protection will lead to employment and income generation which are part of economic and social development. Successful social protection shall not compromise the rights of workers and various social standards.<sup>17</sup> This principle indicates that economic advancement should go hand in hand with the social improvement of workers.

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<sup>17</sup> Kenneth Abrahamsson "Part 2: Human Resource Management, Quality of Working Life and Labour Productivity – The Concept of Good Work" Forskningsradet for Arbetsliv Och Socialvetenskap - KAS, Vinnva, p. 23.



## **Chapter 3**

### **Compliance with Labour Standards and Codes of Conduct in Thailand**

Amidst the current environment of international trade wars, Thailand has been very proactive for over 10 years in complying with export industry-oriented labour standards or Codes of Conduct. Hence, the issue of labour standards is a well-known fact of which most exporters are aware, although its actual enforcement remains weak, as will be discussed below.

#### **3.1 Labour Standards and Code of Conducts of Multinational Corporations<sup>18</sup>**

Labour standards and codes of conduct are primarily developed from the ILO International Labour Standards. Some enterprises may refer to it as “Corporate Labour Standards” while others may call it “Corporate Codes of Conduct” or simply “Codes of Conduct”. The main difference between the two is the wider scope that labour standards cover compared to codes of conduct, as can be seen in Table 3.1 below.

**Table 3.1 Comparison of Main Points between Labour Standards and Corporate Codes of Conduct**

<b>Labour Standard</b>	<b>Code of Conduct</b>
<ul style="list-style-type: none"> <li>• Believes that Codes of Conduct are not transparent, but is rather an image creation tactic, while labour standard puts an emphasis on a sense of true social responsibility.</li> <li>• Codes of Conduct inspectors are biased towards employers due to their business connection with the employers. Labour standards, on the other hand, are more neutral.</li> <li>• Codes of Conduct are not subject to examination by independent organisations, whereas labour standards are subject to regulation by government agencies.</li> <li>• Expects to reduce repetitive inspections of Codes of Conduct through the use of Voluntary Labour Standards which will also help save time and resources.</li> </ul>	<ul style="list-style-type: none"> <li>• Responds to the problems of unfair working conditions in developing countries.</li> <li>• Creates an impartial standard for businesses along the supply chain.</li> <li>• Demonstrates to the public corporate social responsibility through aligning the production process with the ILO conventions.</li> <li>• Reduce the risk of damaging corporate reputation.</li> <li>• Helps a company maintain its market share.</li> <li>• Secures the future of the business and good treatment of workers.</li> <li>• Offers a guideline on business ethics.</li> </ul>

Source: Developed from Suriya Yawichian, Kenan Institute of Asia, Lecture on “Labour Standards” in the training on ‘Labour Standards Volunteers’ organised by Nikom Chantarawitoon Foundation in collaboration with the International Institute for Trade and Development, July 2007 – February 2008.

In today’s international trade, famous brand companies in developed countries require suppliers in developing countries to comply with their corporate codes of conduct and to undergo and successfully pass labour inspections before they can be allocated with the

<sup>18</sup> Chokchai Suttawet, et al (2005).

companies' purchasing orders. Examples of codes of conduct of current influential brands include:

3.1.1. Nike Corporate Responsibility Compliance is a set of standards adopted by Nike affiliates covering 7 areas: 1) forced labour; 2) child labour; 3) payment of remuneration; 4) benefits; 5) working hours/overtime work; 6) environment, safety, and health control; and 7) documents and accountability.

3.1.2 Mattel Corporate Responsibility is a set of standards for toy manufacturers covering 11 indicators: 1) employment, wage, and working hours; 2) age requirements; 3) forced labour; 4) discrimination; 5) freedom of expression and association; 6) living conditions; 7) safety at the workplace; 8) health; 9) planning for emergency; 10) environmental protection; and 11) evaluation, improvement, and monitoring.

3.1.3. Ford Motors' Code of Conduct contains 8 indicators: 1) child labour; 2) remuneration; 3) forced labour; 4) freedom of association and collective bargaining; 5) sexual harassment and discrimination; 6) occupational health and safety; 7) working hours; and 8) responsibilities and implementation.

Apart from the examples above, there are codes of conduct of many other companies including Walt-Disney, Wal-Mart, Adidas, Levi Strauss, Sears, etc. At the international level, many business sectors have not embraced labour standards wholeheartedly, but are being pressured to recognise labour standards due to the following factors:

- (1) Competition in lowering production costs and sourcing products from cheap labour producers;
- (2) Increased subcontracting of production for greater flexibility and reduction of production costs;
- (3) Ability to easily relocate production bases from countries with unfavourable conditions to other more accommodating countries;
- (4) Strong trade unionism in the country;
- (5) Consumers' increasing concern over the production process that respects labour rights, as part of their consideration when making a purchase in addition to the consideration of price and quality;
- (6) NGOs working as a watchdog and raising an awareness to employees; and
- (7) Increased coverage of the labour standards issue by the media

Today's labour standards adopted by the private sector in Thailand have covered a much wider range of issues. Our recent assessment of the issues addressed in several labour standards and codes of conduct found that they cover at least 23 issues (such as in the case of the newly established EICC, the number of issues of which have increased compared to in the past). Most expand the standards to cover not only the issue of management in the workplace but now cover social dimensions involving business governance, corporate responsibility to communities and society, and fair corporate competition. The issues covered are:

- 1) Child Labour
- 2) Forced and Bound Labour
- 3) Discrimination
- 4) Harassment and Abuse

- 5) Disciplinary Practice
- 6) Freedom of Association and Right to Collective Bargaining
- 7) Wages, Benefits and Compensation
- 8) Working Hours
- 9) Overtime Rates of Pay
- 10) Women Workers
- 11) Welfare
- 12) Occupational Health and Safety
- 13) Custom Compliance
- 14) Security
- 15) Management System
- 16) Compliance with Laws and Working Regulations
- 17) Business Integrity
- 18) No Improper Advantage
- 19) Disclosure of Information
- 20) Intellectual Property
- 21) Fair Business, Advertising, and Competition
- 22) Protection of Identity
- 23) Community Engagement

The expansion on the coverage of issues indicates that the ability to manage labour standards along side the management of other product qualities is vital to the survival of a business.

### **3.2 Compliance with Labour Standards and Codes of Conduct in Thailand**

#### **3.2.1 Labour Standard Implementation by the Thai Government**

##### **3.2.1.1 General Situation of the Practice of Compliance with the Thai Labour Standards (TLS 8001-2003)**

The pressure to comply with labour standards has resulted in the Thai government creating the Thai Labour Standards (TLS 8001-2003) jointly with the private sector, under the name “Thai Corporate Social Responsibility” which is in line with the ILO Labour Standards and other Codes of Conduct, especially with SA 8000 (Social Responsibility 8000). TLS 8001-2003 is applied voluntarily to enterprises that export goods to foreign markets, especially several groups of companies in the United States, followed by companies in Europe which covers 12 areas: 1) General Requirements; 2) Managing System; 3) Forced Labour; 4) Remuneration; 5) Working Hours; 6) Discrimination; 7) Disciplines and Punishment; 8) Child Labour; 9) Women Workers; 10) Freedom of Association and Collective Bargaining; 11) Occupational Health, Safety and Working Environment; 12) Workers’ Welfare.<sup>19</sup>

In addition, some provisions in TLS 8001-2003 impose higher labour standards than those stipulated in the Thai laws. The Ministerial Notification of the Ministry of Labour, for example, stipulates that overtime work shall not exceed 36 hours a week. However, the TLS 8001-2003 allows not more than 12 hours of overtime work a week, with a three-year period of adjustment. However, rank-and-file workers do not favour this provision since many rely heavily on extra income from overtime pay, even though this means risking their

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<sup>19</sup> See [www.labour.go.th](http://www.labour.go.th) for details.

health and a good quality of life. Moreover, the MOL Notification also prohibits discrimination in employment, wages, provision of welfare, and job promotion on the basis of nationality, ethnicity, sex, age, skin colour, disability, trade union membership, as well as the prohibition on the hiring of child workers under 15 years of age. Furthermore, the Notification promotes respect for workers' rights to organise and form trade unions, the right to collective bargaining, and employers are prohibited from intervening and interfering in the administration of trade union affairs and the work of employee representatives, etc. It is noteworthy that TLS 8001-2003 has helped more workers in the export sector to have a better life than those in the domestic sector. Even though some provisions in the TLS 8001-2003 duplicate those in the labour laws, there seems to be a greater degree of commitment to the TLS compared to what is stipulated in the laws. Hence, it may not be wrong to say that there is a double standard in the labour standards of Thailand.

There have been continuous attempts by the MOL to encourage Thai exporters to adopt TLS 8001-2003 for over four years. The government motivated business enterprises to join the programme by providing 75,000 baht of financial assistance to companies for their preparation of TLS adoption, and another 75,000 baht for factory inspection to be TLS-certified. So far, 650 enterprises have passed both the primary and complete inspections and certifications, but the number remains rather small compared to the number of over 20,000 exporting enterprises in Thailand. Nevertheless, MOL has set a higher target for certified companies each year.

Part of the advantages of TLS 8001-2003 includes the reduction of state burden on labour inspection because business enterprises are obliged to closely monitor their own factories and follow the standards. Enterprises that enter the exporting business will have an opportunity to familiarise themselves with compliance with different codes of conduct, which will become the norm once they have to begin following the standards of brand owners. That is, workers will receive a better treatment in terms of quality of their working life close to the level stipulated by the law. In addition, TLS-certified enterprises enjoy a greater chance of receiving purchasing orders from abroad.<sup>20</sup>

### **3.2.1.2 The Problems of Complying with Thai Labour Standards**

The problems of implementation and practice of Thai Labour Standards are:<sup>21</sup>

- (1) The lack of universality of the Thai Labour Standards. Few companies exhibit an interest in adopting the TLS since the standards are not interchangeable with international standards or corporate codes of conduct. Companies see no need to adopt the Thai Labour Standards if they must continue to comply with corporate codes of conduct specified by foreign buyers.

<sup>20</sup> Interview Ms Nisa Nopateepkangwal, Director of Thai Labour Standard Certification Division, Office of Labour Standard Development, Department of Welfare and Labour Protection, Ministry of Labour, 13 February 2008 and Mr. Kittipong Laonipon, Director of Labour Standard System Development Division, Office of Labour Standard Development, Department of Welfare and Labour Protection, Ministry of Labour, 15 February 2008.

<sup>21</sup> 1) .Researcher's visits to many export enterprises of different industries over the past 1-3 years; 2) Interview with Ms Nisa Nopateepkangwal (Ibid), 13 February 2008; 3) Interview with Mr Kittipong Laonipon (Ibid), 15 February 2008; 4) Study on Problems and Obstacles in implementing Thai Labour Standards (TLS 8001-2003), Department of Welfare and Labour Protection, conducted by Lega land Labour Research Centre, Excellent Business Management Co., Ltd., July 2006.

- (2) During the initial stage of TLS implementation, the government offers financial assistance to companies for their preparation for the adoption of TLS and for factory inspection. Such assistance is aimed at attracting firms to join the programme. However, when the funding ends, enterprises will have to bear the expenses themselves and if they are unable to assess how worthwhile TLS is to their business, there may be no newcomers to the programme which will inevitably threaten the longevity of the programme.
- (3) Part of the unpopularity of TLS 8001-2003 stems from its excessive requirements beyond what is normally required, such as the issue of welfare and the reduction of overtime working hours from 36 hours to 12 hours within three years, even though in some cases, some enterprises need to produce goods at short notice following the prompt order from foreign clients.
- (4) The Government and the MOL do not provide enough incentives to motivate enterprises to adopt labour standards both in terms of tax and other extra benefits.
- (5) Even though Thai Labour Standards can be widely adopted by both export-oriented producers as well as those producers whose targets are domestic markets, the limited budget allocated by the Bureau of Budget to the TLS project makes it only possible for the project to focus only on export-oriented enterprises.
- (6) Maintaining and increasing the level of compliance of certified companies through provision of assistance to enterprises requires a considerable financial and human resources commitment, two elements which the Labour Welfare and Protection Department lacks.
- (7) Problems of understanding the language used in the provision, or the lack of technical understanding of procedures on compliance with the standards. In addition, frequent turnover of executives in charge of labour standards stalls the development of labour standards and the application for certification.
- (8) Enterprises have several industrial standards with which to comply, namely the ISO Quality Management Series consisting of ISO 9000, 9001, 9002, 9003, 9004; ISO Environmental Management Series comprising ISO 14000, 14001, 140010, 140012, 14031; and the ISO Occupational Health and Safety Management Series which is ISO 18000. The long list of standards to comply with may deter companies from applying the labour standards, especially when TLS 8001-2003 does not have direct impact on the quality of their products or provide certification of industrial production.
- (9) State agencies are also facing problems of their own including the lack of funding and competent personnel, as well as bureaucratic and complicated government procurement procedures in hiring consulting firms to improve and monitor implementation of labour standards. Moreover, frequent changes of governments contribute to the stalling of modification and development of the standards.

- (10) Trade union leaders and employer's associations have given little importance to the enforcement of TSL 8001-2003 in spite of the fact that they had the opportunity to participate in the standard formulation process with the government.

Obstacles in putting TSL 8001-2003 into practice made some MOL executives interested in finding ways to help business enterprises self-declare their full compliance with widely accepted labour standards without having to subject themselves to frequent factory inspection.

### **3.2.2 Labour Standard Implementation by the Private Sector in Thailand**

#### **3.2.2.1 General Situation in Implementing Labour Standards or Codes of Conduct**

Thai exporters are not the owners of the product brands they produce. Technically, they are hired by foreign brand-name companies. Therefore, they have to comply with the codes of conduct set by MNCs from the U.S. and Europe, such as Nike, Adidas, Reebok, and Levi Strauss, etc, through the pressure of consumers and labour movements in these countries. Failure to comply with these codes of conduct means that exporters risk the cancellation of orders from the brand name companies.

More Thai companies producing for both international and domestic markets are now paying close attention to Corporate Social Responsibility (CSR). However, few companies adopt genuine CSR, leaving the majority to adopt 'fake CSR'. Under the first type, enterprises must be responsible for every party and process of workplace management while under the second type, the enterprises carry out only social activities/projects that have little or nothing to do with the welfare of workers. These activities are carried out only for image-building purposes without any true intention to make changes in the production processes and make them comply with labour standards on issues such as labour welfare, environmental preservation, product quality control, delivery of goods to buyers, after-sales service, upholding obligations to stakeholders and communities, and implementing good practices that are in line with the laws and government policies.

Over the past ten years, enterprises complying with Labour Standards or Codes of Conduct are, in order of compliance level, those in the garment, footwear and sportswear, toy manufacturing, and furniture industries, followed by the food processing, electrical and electronic appliances, and automotive industries respectively.

From the study of standards or codes of conduct in different enterprises, it was found that:

- 1) In addition to the regular production contract, Thai companies must sign additional contracts that require them to comply with labour standards or codes of conduct set by MNCs or buyers;
- 2) The buyers will send representatives to monitor and evaluate labour standards compliance at the factory every six months or once a year;
- 3) In case the production companies choose to adopt labour standards/codes of conduct issued by a central institution in their particular industries, representatives from such institution will provide consultation and monitor compliance practices at the factories; and

4) Most enterprises agree to comply with labour standards or codes of conduct hoping to receive orders from foreign well-known brand names.

### **3.2.2.2. Inspection and Certification of Labour Standards in Thailand**

Labour Standards on which Thai enterprises have been inspected can be divided into two groups:

**1) *Corporate Codes of Conduct:*** Any producers accepting to produce brand goods for international buyers must sign an agreement that they will comply with the codes of conduct of the buyers, and must allow factory inspection by representatives of the buyers who can either be employees of the buyers' companies or an independent third party hired by the buyers to carry out inspection. The inspection often includes examination of the management system, though not too strictly, with investigation of how the producers' labour practices are in line with the labour law and the brand's codes of conduct. If inconsistencies between the two are found, the producers must formulate a corrective action plan to be submitted to the brands and followed up by another inspection to ensure that the corrections have been made. In most cases, there should not be more than two inspections. However, if the producers fail to correct the inconsistencies, they may face the cancellation of orders from the brands. Inspection will take place annually and producers/factories cannot avoid this process as long as they produce and supply the products to the brands.

Examples of this type of corporate codes of conducts are: the Nike Code of Conduct, Adidas Work Place Standards, Levi's Term of Engagements, Walt Disney Code of Conduct, and Wal-Mart Code of Conduct, Ford Work Place Standards and so on.

**2) *Voluntary Labour Standards:*** such as SA8000, TLS 8001-2003, WRAP (Worldwide Responsible Apparel Products), FLA (Fair Labour Association), EICC (Electronic Industrial Code of Conduct), ICTI (International Council of Toy Industries), and BSCI (Business Social Compliance Initiative). In this case, enterprises either submit a request to be inspected to the standard certification body, or notify their needs to be certified to the brands. Factories will be inspected both in the area of labour management and consistencies of their labour practices with the law or codes of conduct. Should any inconsistencies be found, factories requesting to be certified will be considered to have failed the certification process, in which case the factories must propose their Corrective Action Plan to the certifying body, make changes in their labour practices to be in line with the labour standards and the labour law, and submit their application for certification once again. As a result, the certification period may take between 1-3 years. Examples of the certification under this system are WRAP, ICTI, BRC, BSCI, SA8000, and TLS 8001-2003.

The numbers of Thai enterprises that have been certified with the above labour standards are as follows:<sup>22</sup>

- SA8000: 10 enterprises, covering all industries.<sup>23</sup>

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<sup>22</sup> Based on researcher (Suriya Yawichian)'s experiences in factory inspection. Note that these numbers are estimated by the researcher based on interviews with various certifying bodies. Such information is often treated with confidentiality and cannot be revealed; therefore, the numbers are only estimates that closely reflect the actual situation.



- TLS 8001-2003 (administered by the Department of Welfare and Labour Protection, MOL): 650 enterprises, covering all industries that have been certified according to the levels of certification standards for a period of 1-3 years.<sup>24</sup>
- WRAP (labour standards for the garment sector): 50 enterprises producing underwear exported to the United States.<sup>25</sup>
- FLA (a central institution that does not certify factories under its own certification licence but carries out inspection and certification on behalf of brands): 40 enterprises being inspected. Most of them are apparel and sports equipment (<http://www.fairlabour.org>)
- EICC (a newly established standard for the electronic industry): no more than 10 enterprises.
- ICTI (a standard for the toy manufacturing industry): no more than 5 enterprises since there are currently very few toy manufacturers in Thailand.<sup>26</sup>
- BSCI (a standard initiated by European buyers, especially those in the German speaking countries): 15 enterprises. The BSCI certification requirements are similar to those of SA 8000; therefore, factories that have been certified with SA 8000 are not required to be certified by BSCI.<sup>27</sup>

### 3.2.3 Enterprises and Compliance with Labour Standards

Enterprises need to comply with the labour standards prescribed in the labour laws, which are the minimum requirements of decent labour practices. Hence, labour standards contain the minimum labour requirements, but at the same time allow flexibility for better labour treatments that go beyond what the law requires. In the case of Thailand, due to the government's insufficient budget and human resources, its labour inspection process contains several loopholes and weaknesses, making the system ineffective. As a result, the government has begun to search for alternative models of labour inspection that would reduce the workload of its officers such as an all-encompassing labour inspection system, a duty-delegation labour inspection system, the establishment of an independent labour inspection institution, a self-monitoring system at factories, an issue-specific labour inspection system, and a network of labour inspection systems.

The Department of Welfare and Labour Protection is paying special attention to a formal and informal network of labour inspection models. For the formal model, the MOL may request cooperation from other state organisations such as the military, the police, or officers from Bangkok Metropolitan Administration to become labour inspectors. However, authority to inspect a factory should be given to those who are not, by law, government officials to inspect a factory. Another alternative for this initial stage is to allow these non-MOL officers to become labour inspectors without granting them the authority to issue an order to the employer. As for the informal network system, the government can encourage the general public and non-governmental organisation

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<sup>23</sup> <http://www.sa-intl.org>

<sup>24</sup> [www.labour.go.th](http://www.labour.go.th).

<sup>25</sup> <http://wrapapparel.org>

<sup>26</sup> <http://www.toy-icti.org>

<sup>27</sup> <http://www.fta-eu.org>

representatives to become volunteers for the government in supplying information and notifying any labour violation cases to the government.<sup>28</sup>

One observation is that when comparing labour inspection by the government with that of brand names or certifying bodies for export-oriented enterprises, it is clear that the inspection of the former is much inferior to that of the latter in terms of thoroughness, quality, and levels of inspection standards.

Apart from labour inspections imposed by the government or independent certifying bodies, business enterprises may also voluntarily submit themselves to an inspection and announce their results of good labour practices openly to society, which simultaneously demonstrates their corporate social responsibility (CSR). Promotion of voluntary CSR from within the enterprises is an option that can be practised at the same time as firms complying with international labour standards but without having to rely too much on external mechanisms of labour inspection by the government or regulations of buyers from rich countries. Genuine social responsibility should be present in the entire process of doing business, from establishing an enterprise to sourcing raw materials, producing and distributing goods. Transforming raw materials to finished products should be carried out with the use of good labour practices. Goods should be produced by the utilisation of the highest potential of content workers.

### **3.2.4 Promotion of Corporate Social Responsibility as one Dimension of Labour Standards and Trade**

Currently, companies, state agencies, and non-governmental organisations in Thailand are interested in corporate social responsibility. There are efforts to promote social entrepreneurship as follows:

1) Social Venture Network (SVN) – formed at an international level with branches in Thailand and called the “Network of Business People for Society and Environment.” This network promotes organisations and business people operating business for society and the environment. They hold annual meetings and provide SVN Awards to outstanding civil society organisations, business organisations, and individuals whose outstanding works benefit society.<sup>29</sup>

2) Corporate Social Responsibility Institute of the Stock Exchange of Thailand. It is responsible for monitoring and preventing social and environmental problems that may occur from business operations.

3) Government agencies such as Bureau of Labour Standards Development, Department of Welfare and Labour Protection which are responsible for TLS 8001-2003, as previously mentioned. Also, in 2007 the Ministry of Social Development and Human Security has established a centre for promoting social businesses, located at the Office of Permanent Secretary of the Ministry.

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<sup>28</sup> Anchalee Kokongka, 2005, Development of Thai Labour Inspection and supplementary documents of research presentation, Department of Welfare and Labour Protection, 31 January 2008, Professor Nikom Chanratwithoon Meeting Room, Fifth Floor, on “Development of Thai Labour Inspection System”.

<sup>29</sup> <http://www.thaipr.net/nc/creadnews.aspx?newsid=422BF6D49750BB7CFD20B4246E78F917> – 20 February 2008.

4) Non-Governmental Organisations such as:

- 4.1) Kenan Asia Institute: providing consultation services on enforcing labour standards at factories and certifying business enterprises.
- 4.2) Thaipat Institute: a non-profit organisation that works toward mobilising the philosophy of Sufficiency Economy and Corporate Social Responsibility. The target groups include businesses, community enterprises, and urban households. It operates under the Thai Rural Restoration Foundation under the King's patronage together with four partner organisations namely PUEY Community Learning Centre, Rural and Social Management Institute, School for Life, and Thai Rural Net.
- 4.3) Nikom Chantarawitton Foundation: an NGO whose works lie in the field of educating and training the public on the issue of labour standards.
- 4.4) Arom Phongphangan Foundation: an NGO that supports labour standards through research and seminar.
- 4.5) Friend for Women: an NGO focusing on monitoring women workers' rights and supports labour standards through research and training.

Notwithstanding the varieties of initiatives that promote labour standards in Thailand, today's Thai business enterprises remain only at the initial stage of conducting businesses with all-encompassing concerns for the benefits of society. Most businesses engage in social works only for the sake of good corporate image rather than exhibiting their genuine interest in making society a better place. Enterprises under the latter category are members of the Social Venture Network (SVN) in Thailand, which focus on 3 main principles: **1) Products** i.e. producing safe products for consumers and society at fair prices and decent values; **2) Process** – production process that is safe for workers and does not produce pollution which is dangerous for workers and the environment. Raw materials used must not come from sources that are hazardous to the environment and must be bio-degradable which will not threaten the environment both in the present and the future; and **3) People** – use of labour fairly with decent labour standards and with provision of appropriate welfare.<sup>30</sup>

Even though SVN members comply with the three principles above, their labour practices are still insufficient when compared to what are stipulated in the ILO Conventions, since these enterprises are not well-known for adopting two of the eight ILO Core Labour Standards Conventions which deal with the issues of freedom of association and right to collective bargaining among workers.

Although the consumer protection movement in Thailand pays attention to corporate social responsibility in principle, there has not been any activities coming from this social group in terms of labour inspection or exercising their consumers' rights to pressure producers to abide by labour standards. Consequently, Thailand remains weak when it comes to ethical consumerism especially on issues related to labour rights.

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<sup>30</sup> Opinion of Suthichai Iamcharoenying, President of Network of Business Enterprises for Society and the Environment, quoted from [http://www.consumerthai.org/cms/index.php?option=com\\_content&task=view&id=660&Itemid=57](http://www.consumerthai.org/cms/index.php?option=com_content&task=view&id=660&Itemid=57) – 20 February 2008.

### 3.2.5 The Problems of Complying with Labour Standards or Codes of Conduct

Between July 2007 and February 2008, the researchers organised 7 focus groups with 89 participants who were representatives of trade unions and workers in 15 industries namely, 1) electrical and electronic appliances; 2) automobile; 3) food and beverage; 4) earthenware; 5) NGOs; 6) educational institutions; 7) government and state enterprise sectors; 8) services sector; 9) transportation of exports; 10) textile and garment; 11) metal; 12) office equipment; 13) sports equipment; 14) plastic products; 15; others (See details of the participants in Appendix 2). Problems that were generally found to have occurred at workplace and with workers on the issues of compliance with labour standards and codes of conduct are as follows:

1) Recognition that complying with labour standards and codes of conduct is an important part of a sustainable business. Voluntary compliance is limited and is clearly not consistent with business growth.

2) Compliance with labour standards and codes of conduct at enterprises is often carried out shortly before inspection from brands or certifying bodies takes place, and is generally not done on a regular basis.

3) Limited or no participation in labour standards compliance from workers and trade unions.

4) Other problems of labour standards compliance in various industries/businesses are, in the order of frequency that the problems take place:<sup>31</sup>

4.1) Reducing overtime work, the point with which many workers are discontent. Nevertheless, several business entities continue to implement forced overtime work.

The industries in which this problem frequently occurs are textile and garment, food and beverage, metal, electrical and electronic appliances, and automotive industries.

4.2) Discrimination in job promotion, salary adjustment, or provision of welfare to groups of workers who are not favoured by the management (discrimination in terms of gender is minimal). This problem occurs in every industry or enterprise.

4.3) Punishment that does not conform with rules and regulations of the industry. This problem occurs in every industry or enterprise.

4.4) Contracted workers do not receive the same pay and welfare as permanent workers although both perform the same work. This problem often occurs in the textile and garment, electrical and electronic appliances, automotive, and metal industries.

4.5) Leaders and members of trade unions face discrimination in employment benefits such as job promotions, training, and face intimidation from company supervisors. This problem occurs in every industry or enterprise.

4.6) Shortcomings in the management of occupational health and safety (OHS) issues such as the lack of safety equipment, workers' failure to be

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<sup>31</sup> Information obtained from 7 focus groups organised. Some information has been accumulated from seminars, meetings, and discussions that the researchers have participated in the past year.

disciplined when failing to use safety equipments; or OHS trainings are not provided according to plan. This problem occurs in every industry or enterprise.

4.7) No access to labour law training. This problem occurs in every industry or enterprise.

4.8) Verbal harassment against women workers by their supervisors and colleagues. This problem occurs in every industry or enterprise.

4.9) Sexual harassment against women by their supervisors and colleagues. This problem occurs in every industry or enterprise.

4.10) Discrimination based on pregnancy. This problem occurs in textile and garment industries.

4.11) Inconsistencies in the calculation of annual leave. This problem occurs in every industry or enterprise.

4.12) Miscalculation of overtime pay. This problem occurs in every industry or enterprise.

4.13) Failure by employers to comply with their employment agreements with workers. This problem occurs in electrical and electronic appliances, and automotive industries.

4.14) Wage deductions when employees work less than eight hours per day . (Employers claim that the pay is proportional to the actual number of hours worked and is not considered wage deduction, such as when workers are late for work. This is according to the No Work No Pay principle). This problem occurs in the electronic and electrical appliances, textile and garment, and services industries.

4.15) Workers do not recognise Workplace Welfare Committees, because members of such committees are often appointed by management instead of being elected by workers. Moreover, dismissing WWC members is not against the law. This problem occurs in every industry or enterprise.

4.16) Lack of notification to workers prior to a business closure and payment of only half of the workers' salary before the closure. This problem occurs in the textile and garment, and electrical and electronic appliances industries.

4.17) Carrying or lifting heavy objects exceeding the weight set by law. This problem occurs in export transportation (convoying rice bags).

Apart from the above problems that are commonly found among workers both in Thailand and abroad, additional problems are found among migrant workers, who are often treated with weak labour standards and are discriminated against to a greater degree compared to Thai workers. Their problems include:

- (1) Receiving payment below minimum wage, especially unskilled workers.
- (2) Confiscation of travel documents or work permits.
- (3) Discrimination in the evaluation of their work performance, the criteria of which differ from those used with Thai workers.
- (4) Migrant workers' lack of an understanding of grievance filing procedures, appeal channels, as well as rules and regulations of their factories.
- (5) Workers' coordinators not fulfilling their duties because most are appointed by the employer who do not understand labour issues.
- (6) Migrant workers not joining the social security system, although some subscribe to the national health insurance;
- (7) No clear explanation on workers' welfare and remuneration given to migrant workers.
- (8) Provision of lodging, and the missing information on workers' welfare and wages in the employment contract.

- (9) No provision for translation to the languages understood by migrant workers.
- (10) No clear rules on who are responsible for the payment of migrant workers' registration fee, resulting in most employers deducting the fee from the workers' salary.
- (11) The lack of opportunities to receive training.
- (12) Prohibition on migrant workers to travel outside the provinces of their workplace.

### **3.3 Corporate Success and Labour Standards for Trade**

There has been no concrete evidence indicating that upgrading labour standards leads to increased profitability of business and industries. However, several indicators reveal that labour standards have been recognised by business operators, although some may feel that adopting labour standards is necessary for the survival and growth of the business, as will be discussed below.

1) The cost of complying with labour standards is acceptable by business enterprises, as it helps companies receive purchase orders from international buyers, which in turn leads to corporate profits in the future. Therefore, for enforcement of labour standards to be effective and acceptable to firms, it must be tied in with profitability. For example, more than 600 enterprises have joined the Thai Labour Standard programme (TLS 8001-2003) mainly because of the financial support they received from the Ministry of Labour, without which the number of firms joining the programme may be much lower. This example demonstrates that companies are willing to participate in the labour standards development programme so long as they do not have to bear the expenses for developing the standards and inspection. When such a programme starts charging a fee for the service, it is uncertain to what extent firms will wish to participate in the programme, given that there is no direct impact of adopting the standards on the increase in purchasing orders from buyers abroad. On the contrary, these firms are willing to pay an exorbitant amount of money to international standard certifying bodies or institutions designated by foreign buyers in order to be certified, since purchase orders and profits are lucrative economic incentives to do so. Otherwise, it is unlikely that Thai firms will abide by labour rules specified from abroad that are beyond what is written in the Thai laws for over 10 years now, and is becoming a normal course of life.

2) Some enterprises solve the problem of overtime work that is beyond what is allowed in the labour standards e.g. more than 12 hours a week, by reducing workers' overtime to be within the allowed limit, while at the same time offering higher financial compensation to workers proportionate to their productivity. One such company is a garment company – Apparel Avenue. By reducing workers' overtime hours and increasing their compensation according to their productivity, the company demonstrates its greater interest in increasing efficiency, raising labour skills, and quality of its employees' work, while at the same time placing importance to the social dimension i.e. quality of life of workers as efficient wage earners.<sup>32</sup> This strategy will also raise the company's profile as a producer of high-quality goods that are competitive at the international level, and will

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<sup>32</sup> Wage is paid in a form of money, which can be considered an economic value that workers receive from their employers. However, in the context of labour standards, it also carries a social dimension in that it represents the quality of workers' life, as it represents the value of their hard work. In addition, wages carries a connotation of bargaining power that workers have in terms of their economic ability to expend.

likely secure the business in the global competition more than firms that try to avoid labour standards.

3) Labour standards are an important social and economic dimension of a business. Companies that follow labour standards or codes of conduct, or what is often called 'corporate social responsibility', will benefit from the good corporate image it creates, and gain greater acceptance from consumers. However, the economic benefits to firms from adopting labour standards still cannot be easily measured. That is, even though complying with labour standards will improve workers' quality of life, it also means higher human resources management costs such as more investment in training and development of personnel, and management of personnel information. However, these costs tend to lead to a better labour management system as it creates greater satisfaction to the workers, resulting in their greater cooperation with the management, and the sense of belonging among the workers, which will eventually bring economic benefits to the firm such as reduction of losses, per unit cost of production, and an increase in corporate revenues. However, such gains cannot be easily measured since other factors may also affect the quality of products and company's profits such as changes in the production technology and corporate/organisation restructuring. But even though research on the linkage between benefits to workers as a result of labour standard compliance and companies' profits are not widespread, there is considerable research on the relationship between workers' quality of life and their satisfaction, morale, and the sense of belonging at work. These works are found in the study of Organisation Theory and Master's theses in the fields of politics and business administration at various academic institutions.

In conclusion, developing labour standards, which lead to upgrading workers' quality of life, shall result in economic profits in addition to social benefits to a business. However, studies that confirm this relation are few in number. This current research does not investigate a part company as a case study, nor does it conduct a survey. However, by studying information concerned with adoption of labour standards in different industries as well as using two industries as case studies, we wish to confirm that labour standards have long-term positive impacts on enterprises both in terms of economic and social benefits, as discussed earlier.



## **Chapter 4**

### **Case Studies in Thailand**

Adoption of labour standards for trade in Thailand exists in various industries and its degree of adoption varies, as mentioned in Chapters 2 and 3. In this Chapter, the researchers looked at compliance with labour standards and trade in two industries which play an important role in Thai exports. One is the garment industry, with its current export volume of \$3.5 billion per year<sup>33</sup>. The other is the food industry with an export volume \$500 billion per year.<sup>34</sup> This study aims at investigating the differences in labour standard compliance between the two industries. It was found that the level of labour standard compliance is higher in the garment industry compared to that in the food industry. Results of the research are as follows:

#### **4.1 Compliance with Labour Standards or Codes of Conduct: A Case Study of Thailand's Export-Oriented Garment Industry<sup>35</sup>**

The export-oriented garment sector in Thailand, with target markets in the United States and the European Union, was one of the first industries forced to comply with corporate codes of conduct by brands or international buyers. These factories have undergone intensive inspections for the past 10 years. Factories that failed to comply with the requirements contained in the Codes of Conduct realised that they would not receive new purchase orders. In this situation, the factories had three choices: solicit business from companies with no codes of conduct; supply their products to the domestic market; or close down their businesses altogether.

Over the past ten years, enterprises in the textile and garment industries often faced serious employment problems: 1) high turnover of employees; 2) intense competition in the hiring and workers' selection process; and 3) employees' lacking sufficient skills.

Important problems in labour standard compliance are: 1) few labour standard consultants are available; 2) factories lack skills needed to create a complete documentation system; and 3) frequent change of team members responsible for the success of the development of the labour standards system e.g. the change of internal labour standard inspectors.<sup>36</sup> In addition, it is a widely known fact that trade unions in the garment sector are strongly united, which certainly has an impact on the labour standard compliance in this sector compared to workplaces with weak trade unionism.

Apart from the above internal factors that affect the readiness to produce goods and factories' success level in complying with codes of conduct, these factories also face external problems from international trade competition from Cambodia, Viet Nam, and China, etc. The competition creates problems to the factories in terms of price and quality of products. If factories cannot manage their production costs and maintain the quality of product, buyers will shift their orders to other countries with lower production costs. Consequently, Thai garment producers and exporters must formulate strategies to

<sup>33</sup> [http://www.tnsc.com/html/images/stories/article/pdf/EXIM/Garment\\_Export\\_Statistics.pdf](http://www.tnsc.com/html/images/stories/article/pdf/EXIM/Garment_Export_Statistics.pdf)

<sup>34</sup> Food Institute, 2005: <http://www.nfi.or.th/stat/graph06.asp>.

<sup>35</sup> Chokchai Suttawet, Pimol Kongthip, Witthaya Yusuk, and Suthinan Chanthanakul (2005) and interview with Mr. Henry Lu, Marketing Director; Castle Peak Holding Public Co., Ltd. 14 February 2008.

<sup>36</sup> Chokchai Suttawet, et al, 2005: 155-156.

effectively manage their businesses or they would not be able to maintain their competitiveness. This means that they have to pay attention to three management elements: 1) cost management by adopting the systems of Just In Time, Lean Management, Total Quality Management (TQM) and so on; 2) production quality maintenance by examining quality of products throughout the production process (100% Inspection), or the adoption of the ISO 9000 system; and 3) compliance with codes of conduct by adopting SA 8000, TLS 8001-2003 or WRAP standards.

Labour standard compliance in the Thai garment industry has surpassed the mere compliance to the labour law and has now become increasingly focused on corporate codes of conduct. To the question of whether it is difficult to comply with a code of conduct, the answer is that in principle it is not, since most corporate codes of conduct share common features and emphasise compliance with the labour law including protection of workers' welfare and safety, and protection of the environment. Factories that can fulfil these basic requirements will pass buyers' initial inspections.

However, the problem arises when these various codes of conduct vary in details including specific requirements that need to be met. One such problematic issue is that most codes of conduct allow less overtime to be worked per week than that specified in the labour law. For example, the codes of conduct state that employees will not work more than 60 hours per week which is equivalent to 12 hours of overtime while the Labour Protection Act B.E. 2541 (1998) allows 36 hours of overtime a week. This creates problems in the garment industry, where the delivery of orders are often subject to very short time frames because of problems involving the approval process for each lot and the delivery of raw materials. Thus, to meet the product delivery deadline, workers have to work overtime which inevitably exceed the hours stated in the code of conduct. If any factory reduces overtime work to only 12 hours per week as required by the code of conduct, the workers would leave for other factories that do not have to comply with codes of conduct where they can work additional hours to earn more money.

Currently, the growth of Thailand's garment export has declined by 3-5% per year, despite a labour shortage of 50,000 workers<sup>37</sup> in the garment industry. However, when considering the overall picture, Thailand remains highly competitive in the international market both in terms of a better skilled labour force (for many enterprises that still manage to compete in terms of quality), and available domestic sources of raw materials. Most factories have long complied with labour laws and have become familiarised with codes of conduct. It is not likely that these long established factories will fail to meet the codes of conduct (with exception to the issue of working hours).

The garment industry in Thailand is facing a crisis, though there are opportunities in disguise. Some view the Thai garment industry as a sunset industry because of the fierce international competition in price from cheaper labour-cost countries, especially China, Vietnam, or even Cambodia. Nevertheless, for progressive enterprises that have been in the business for an extended period of time, labour cost is not an important problem or obstacle. If the Thai government continues to support this industry, there will be a continuous flow of workers who still wish to work in this industry (as Thailand is still very much in need of labour in this industry), coupled with several entrepreneurs who are interested in this business. This means there is a potential for the Thai garment industry to

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<sup>37</sup> [http://www.tnsc.com/html/images/stories/article/pdf/EXIM/Garment\\_Export\\_Statistics.pdf](http://www.tnsc.com/html/images/stories/article/pdf/EXIM/Garment_Export_Statistics.pdf).

be revived, but the country must shift their production to premium goods where price competition is low and the only concerns are product quality and the level of difficulties involved in the production process. This will involve highly skilled workers. In this case, the government will be required to regulate the foreign exchange system to create greater stability than what it is now.

#### **4.2 Compliance with Labour Standards or Codes of Conduct: A Case Study of Thailand's Export-Oriented Frozen Food Industry**

The Thai food industry has enjoyed greater success compared to other industries, especially in the field of frozen seafood, since the world needs quality and healthy food to compensate for other kinds of protein such as beef, which had been threatened by the Mad Cow disease, and poultry which faced the Bird Flu problem in recent years. The Thai food industry has a high potential in Asia and in the world market, especially Thai seafood such as shrimp, tuna, and squid which are very popular in the United States, Canada, Europe, Japan, and Australia because of their quality, diversity, freshness, and good taste.<sup>38</sup>

Apart from its effective management of the production system, the success of the Thai seafood industry also stems from other factors such as the practice of aquaculture (shrimp in particular) to replace natural catch, the Good Agricultural Practices (GAP) system, the Hazards Analysis Critical Control Points Standards (HACCP), and Microbiological Standards.<sup>39</sup> Moreover, the industry has also received support from various government agencies such as Department of Fishery, Board of Investment, and other private organisations like the Thai Food Producers Association, and Food Institute, all of which contribute to the success of the seafood industry in Thailand.<sup>40</sup>

Although the food industry, especially seafood-related industries such as natural catch and aquaculture, may be successful in terms of expansion in production and employment, treatment of workers in this industry continues to be below standards. The rush to produce fresh and high-quality food means workers are under great pressure to perform their jobs, work under extremely unsafe conditions at sea, face irregular working hours, an unsanitary workplace, and they are exposed to hazardous chemicals and foul odours, etc. Due to these conditions, Thai workers refuse to work in the seafood industry, especially with small and medium-sized enterprises. Since most Thai workers refuse to work in the seafood industry, many seafood operators need to employ migrant workers, resulting in a steady rise in the demand for migrant workers in this industry compared to that of other industries. Large scale enterprises, on the other hand, face much fewer problems of labour shortage. Some have such good working conditions that they are able to avoid hiring any migrant workers. An example of one such company is Union Frozen Products, owner of seafood brand "Pran Talay" (sea hunter).

Many food processing businesses are aware that Labour Standards or Codes of Conduct initiated by the United States and European countries are a form of trade barriers used to make Thai products more expensive in the global market. Despite this, Thailand has no option but to comply with such labour standards in order to achieve its export targets.

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<sup>38</sup> [http://www.boi.go.th:8080/issue/200508\\_18\\_8/5.htm](http://www.boi.go.th:8080/issue/200508_18_8/5.htm)

<sup>39</sup> [http://www.boi.go.th:8080/issue/200508\\_18\\_8/5.htm](http://www.boi.go.th:8080/issue/200508_18_8/5.htm)

<sup>40</sup> [http://www.boi.go.th:8080/issue/200508\\_18\\_8/5.htm](http://www.boi.go.th:8080/issue/200508_18_8/5.htm)

Large-scale enterprises are better adjusted to labour standard compliance than small enterprises due to their professional human resource management system. Small enterprises are divided into 2 groups: a) enterprises employing workers to work outside the factories, and b) enterprises employing workers to work on-site. The factories that employ workers to work on-site are more compliant with labour law because they are inspected by government officials more frequently than the others. Moreover, they solve labour problems by using more machinery to replace the workforce. However, certain types of work must be done manually and cannot be replaced by the machine, e.g. the peeling of shrimp heads and squid skin.

There are about ten enterprises that have gained certification under TLS 8001-2003.<sup>41</sup> Other standards in the seafood industry are not very prominent in terms of labour issues. The focus is more on the quality of food. The food industry, especially the fishery-related industries, is in high demand for migrant workers. These workers have been neglected in terms of their rights according to the labour laws (as mentioned in 3.2.5 and 4.16). Moreover, they are subject to higher labour rights violation compared to Thai workers. They are in high demand because Thai workers refuse to take up dirty, difficult, and dangerous jobs. Clearly, Samut Sakhon province is the biggest frozen food area as of 2008. It employs around 205,366 migrant workers out of the total number of 331,639 workers in the province, or about 60% of the total workforce in Samut Sakhon in that year. Most migrant workers are in the food industry. Almost 200,000 workers are without documents, and 80% of them are Burmese, while others are from Lao PDR and Cambodia. The government has tried to register these undocumented workers following the request of business operators.<sup>42</sup>

In 2007, enterprises in Samut Sakhon needed 260,000 workers in the fishing, agriculture, and related sectors. However, this demand was not met. In 2008, business operators submitted a request to the Samut Sakhon Governor to supply them with 150,000 workers by 31 January 2008. Even though the enterprises first announced job openings to Thai nationals with an offer of a wage more than the then existing minimum wage (200 baht per day while the minimum wage was at 194 baht per day), very few Thai workers applied for the jobs as of January 31, 2008. Consequently, firms had to hire migrant workers. The current number of migrant workers in Thailand unofficially stands at 1 million.<sup>43</sup> The basic problem in legally employing migrant workers is that such workers are not officially registered with the government. If the firms wish to do so, they have to pay a large sum of money for the migrant employees' registration fees.

The main reasons why Thai workers do not want to work in the fishery and related industries including frozen food are the far-from-decent treatment of labour that is notorious in these industries.<sup>44</sup>

- 1) Fishing, agriculture, and related sectors are dirty, smelly, strenuous, and dangerous.
- 2) Irregular working hours e.g. whenever fishing boats arrive at the port, workers have to report to work.
- 3) No job security.
- 4) Fast pace nature of work.

<sup>41</sup> Interview of Dr Vichan Sirichai-ekwat, Former President of Outer Waters Fishing Association.

<sup>42</sup> Office of Welfare and Labour Protection of Samut Sakhon 2007.

<sup>43</sup> Interview of Mr. Kreetha Sopchoke, Head of Labour Office of Samut Sakhon

<sup>44</sup> Undocumented Migrant Workers in Samut Sakhon, Samut Sakhon Labour Office

- 5) Outdoor work and exposure to the elements.
- 6) The use of and possible exposure to dangerous chemicals.
- 7) Thai people prefer to work in a comfortable environment, such as in department stores, rather than doing laborious work as in the fishery industry.

Migrant workers in the fishery and related industries suffer several problems including a poor quality of life, health problems, communication problems due to language barriers, their children (which numbered up to 2,000 people currently) lack access to education, social problems among themselves, and national security problems. Because of this, the government has to prohibit migrant workers from travelling outside the province in which they work, unless they obtain permission from their employers.<sup>45</sup>

Even though the government has been trying to inspect food processing business enterprises, it is not possible to inspect all establishments. They need local volunteers to help inform them of unusual labour practices. However, it is obvious that migrant workers are not treated according to the labour laws. In the case of the food industry, competition has become increasingly fierce. Because of the Bird Flu outbreak in Asia in recent years, European countries have turned their protein consumption to seafood. Thailand has been a beneficiary of this phenomenon in terms of the steady growth of its seafood export. Yet, labour standard compliance is not a major concern of many entrepreneurs in the seafood business. Instead, most food processors are more vigilant when it comes to the quality and freshness of their seafood products.

Based on the study of the two industries above, it was found that the garment industry is more active than the food industry in their attempt to comply with labour standards. Enterprises in the food industry tend to only comply with labour laws rather than paying attention to the labour standards for trade or corporate codes of conduct, the requirements of which are more arduous than what is stipulated in law. This can be observed through the fact that the garment industry employs a higher number of Thai workers, as legal workforce that are entitled full labour protection, than does the food industry. Moreover, workers in the garment industry are more unionised than those in the food industry. Also, international competition in the garment sector is more intensified than that in the seafood group. As such, Thailand is still able to enjoy a top position in the world seafood market and faces much less international competition compared to the garment sector. Consequently, we conclude here that compliance to labour standards is higher in the industry with intense competition and where workers are strongly unionised.

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<sup>45</sup> Interview of Mr. Kreetha Sopchoke, Head of Labour Office of Samut Sakhon.

## **Chapter 5**

### **Conclusion, Discussion of the Findings and Recommendations**

#### **5.1 Summary of the Research Findings**

Thai enterprises in many industries have complied with labour standards, but the number of compliant firms is only 780 enterprises nation-wide, compared to the total of 15,000 exporting firms in the country, as mentioned in Chapter 3. This indicates that the number of exporting businesses that see importance of labour standard compliance remains very low and account for only 5% of all the exporting enterprises.

Several obstacles exist in the implementation of trade-oriented labour standards, especially due to different state policies on domestic and export industries. While the government pays close attention to the enforcement of labour standards in the export sector, it overlooks the effective enforcement of labour laws in the domestic sector.

Evidence from both case studies discussed in Chapter 4 reveals several problems in the implementation of labour standard in various industries, and the problems are borne by both Thai and migrant workers. Exporters who have enjoyed economic benefits from compliance with labour standards often distribute such gains to workers in the forms of better welfare benefits and higher wages. Still, they adopt the labour standards, not out of their own will, but to comply with obligations in agreements signed with foreign brands. Voluntary adoption of and compliance with labour standards is the most favourable scenario, but achieving such a goal will rely heavily on strong unity among workers and the will to co-exist in harmony with employers, as well as an active consumer rights' movement in the country.

#### **5.2 Discussion of the Findings**

Results from the current research reveal that adopting labour standards may raise production costs but to a very insignificant degree compared to the financial assistance that the government provides to business enterprises to encourage them to join the Thai Labour Standards (as discussed in Chapter 3). Therefore, some companies say that labour standard compliance becomes a financial burden to a business that it makes the business less competitive in the international market. But, in reality, compliance should help firms improve their labour-management system, which should help the firms become sustainable in the long run (as presented in Chapter 3 and 4).

Thailand has placed importance on the ILO International Labour Standards for over 40 years. Yet, Thailand has ratified very few ILO Conventions. Thailand seems to be good at modifying and applying only the standards that are deemed applicable to the country without committing itself to a full obligation stated in the Conventions, which has helped the country avoid being officially inspected by the ILO. As a result, several important Conventions that are useful for the country's development are left unratified, without a clear timeline as to when their ratifications will take place.

While ILO Labour Standards are making slow progress in Thailand, global trade competition has steadily intensified. This has allowed independent certifying bodies and

multinational corporations (MNCs) to assert pressure on Thai producers to follow strict regulations set by world-famous brands on the production processes, which are in turn a result of consumers' pressure and advocacy of the labour movement in their respective countries. Another phenomenon that triggers the expansion of compliance is the Corporate Social Responsibility trend in the Thai business circles; however, most attention is paid to the issues of environmental protection, community development, and consumers' interests, while responsibility over workers continues to be ignored.

Mobilisation from different directions on social causes has affected management strategies of international organisations, especially those whose works are related to industrial product standards. As a result, many organisations have increasingly integrated labour standards and various dimensions of CSR into their product standards, as in the case of ISO which will soon release the new ISO 26000 that assesses social responsibility of firms. This standard, however, is voluntary that does not require on-site inspection for certification.

Compliance with standards or codes of conduct in Thailand is in a growing stage, and has now surpassed the initial development period. Corporate codes of conduct introduced by MNCs have long become a well-known fact in producer, labour, and government circles. The government has also initiated its own standards called TLS 8001-2003. However, most large enterprises give greater importance to the codes specified by foreign brands/buyers than to the Thai Labour Standards. In addition, migrant workers in Thailand continue to be less protected by labour standards due to fundamental problems of business enterprises which result in the abuse of migrant workers. This is coupled with the weakness of workers' groups and their limited bargaining power.

From the two case studies – the textile & garment, and the food industries – we found that workers in the former industry enjoyed better treatment than those in the latter. The reason why the two main industries continue to face problems with compliance with basic labour laws or corporate codes of conduct is related to the limited bargaining power of the workers. In the case of the seafood industry, which employs a large number of migrant workers, cases of labour rights violation are common. For the most part, migrant workers do not possess the necessary documents to legally work in Thailand. Because migrant workers are desperate in their desire to remain employed, they submit themselves to harsh working conditions. As undocumented workers, the migrants live a precarious existence and the idea of organising themselves to gain bargaining power is far from reality.

### **5.3 Recommendations: Opportunity to Connect Labour Standards with the Development of a Nation**

The opportunity to make use of labour standards to promote trade and development in Thailand is still there. Labour standards are not obstacles to the development of the nation. However, it could become a trade barrier for enterprises that have never prepared themselves to be concerned about investing in the improvement of workers' quality of life. For enterprises wishing to survive and succeed in the long run, labour standards or codes of conduct are an indispensable element in the future. Options for development in this issue are:

- 1) Promotion of compliance with both the labour laws and codes of conduct is an important mission of the government. This effort requires cooperation from both

employer associations and employee organisations, as well as from non-profit organisations, especially at the national and industrial levels. The National Advisory Council for Labour Development should be authorised by the government to take responsibility in coordinating cooperation between the Ministry of Labour and other Ministries.

- 2) The Thai government has ratified five ILO Core Labour Standard (CLS) Conventions, but there are 3 other important conventions that need to be ratified: Convention 87 (1948) - Freedom of Association and Protection of the Right to Organise; Convention 98 (1949) - Right to Organise and Collective Bargaining; and Convention 111 (1958) - Discrimination (Employment and Occupation). In addition, the Thai government should consider ratifying other Conventions that are not part of the CLS but are important in their own right. These include conventions on Social Security, Occupational Health and Safety, Labour Management, Tripartite Consultation, as well as Recommendations concerning Communication between Employers and Employees at the Workplace. However, future ratification should be done as a package, rather than on an individual convention basis. This way, development of standards can be done in a more coordinated fashion. A good labour-management system should incorporate all dimensions of labour-related matters, instead of in a partial, divisive manner as in the past. This would better prepare Thailand for international competition and would enable the country to distribute the benefits of trade to all stakeholders on a more equitable basis.
- 3) While the government has not ratified more ILO Conventions, some of the Thai labour laws have already incorporated certain aspects of international labour standards, though not completely. Following this, the country should then examine whether there are any issues in the Thai law that need modification in order to make it in line with International Labour Standards and at the same time be appropriate to Thai society in the future. Since there are currently 190 ILO Conventions in total (as of 2008), the government should carefully select the ones that are most relevant to the stage of development of the country, especially Conventions related to 1) Protection of Child and Youth Labour; 2) Employment Policies; 3) Human Resources Development; 4) Employment Security; 5) General Working Condition (wage, working hours, etc.); 6) Occupational Health and Safety; 7) Social Security; 8) Labour Management and Labour Inspection; and 9) Labour Relations. These can be guidelines for Thailand to apply ILO principles to successful management of labour and trade issues. Examples of such ILO conventions are Convention 150 – Labour Management, Convention 144 - Principle of Tripartite Consultation, and Recommendation 129 governing Communication between Employers and Employees at the Workplace. The content of these Conventions will provide a good framework for applying Labour Standards for trade which should be in line with the ILO Core Labour Standards.
- 4) The government should find a strategy to manage effective labour standards enforcement alongside labour skills development, so that enterprises and workers can both benefit from the scheme. While labour standards focus on upgrading workers' quality of life, labour skills development can benefit businesses as it raises workers' efficiency and productivity.



- 5) Some national mechanisms related to labour law enforcement should be reorganised to support the use of labour standards to enhance international trade. This includes organisation restructuring of some state agencies to support this change. Another tool that is worth considering is the establishment of a network between the government, the private sector, workers, and consumers groups. Regular meetings among all concerned stakeholders should be organised. If a national committee cannot be established, the starting point should be organising of a national meeting on labour standards and the future of Thailand, and formation of committees to improve labour standards in specific industries.
- 6) The government should set up a mechanism or assign an institution to follow up on the joint coordination between the ILO and the WTO on the issue of labour standards and trade. Thailand should then create a network of all stakeholders according to recommendation No. 5 to monitor the issue, and the Ministry of Labour as well as private sector organisations should actively manage this network in a constructive manner.
- 7) Thailand should establish a system of labour standard volunteers to assist the government, employer associations, and employee organisations in monitoring compliance of labour standards or codes of conduct, due to the fact that there are an insufficient number of personnel working in this field, especially staff of government agencies.
- 8) Improving the migrant workers management system to make it in line with ILO Conventions governing migrant workers, in order to reduce labour rights violation in this sector. Where Thailand has entered bilateral agreements with other countries, an effective labour monitoring and review mechanism must be put in place, or the agreements will have no significance in practice.
- 9) The-soon-to-be-announced ISO 26000 is a voluntary standard that incorporates all labour standards and codes of conduct within itself. Various stakeholders in Thailand should seriously consider adopting it and putting it into practice, even though certification is not mandatory, since compliance to the standard will bring economic and social benefits to the general public, consumers, and workers.
- 10) The role of consumer protection organisations in promoting ethical consumerism in Thailand is still minimal. Mobilising people to be more concerned about labour justice is an urgent issue. Once consumers begin to take into account labour issues in the production process in addition to product quality and price when making their purchasing decisions, the issue of labour standards will certainly occupy more space in society. Consumers are also workers. Thus, the quality of life of workers will inevitably affect consumers' lives.
- 11) Although the adoption of labour standards by exporter enterprises is not voluntary but is simply part of the requirements of international buyers, putting the labour standards in practice a period of time will help the enterprises familiarise themselves with good labour practices, which in the long run helps make their businesses more sustainable. As a result, adoption of labour standards should also be done by producers for the domestic market in order to avoid creating a double standard system within the same country.

- 12) Thailand has to acknowledge that the country's economy relies heavily on the use of migrant workers. Thus, an appropriate approach is to create a better system of migrant workers management and provide them with equal protection to that received by Thai workers. The government should employ the use of a coordinator that interacts between employers and migrant workers, and grant the right to migrant workers to elect the coordinator. In addition, interpreting services should be provided by the government, NGOs, trade unions, and volunteers, as well as encouraging migrant workers to join trade unions.
- 13) Government labour inspection is closely related to labour standards enforcement, but only to the extent covered by the law. Thus, Thailand should reorganise the labour inspection system to be in line with private labour standards and corporate codes of conduct that are being used in exporting enterprises. Under this approach, Thailand shall consider ratifying ILO Convention 81 governing Labour Inspection.
- 14) Strengthening all stakeholders involved in labour standards is very important, whether they are the government, employers, trade unions, or consumers groups. Promotion of the network of all stakeholders is also highly essential. Some institutions such as universities or NGOs should be appointed a coordinator role, with funding provided by the government.
- 15) The genuine corporate social responsibility is to manage labour standards in an ethical way in all steps including establishing the factory, sourcing raw materials, processing products and distributing products and providing after-sales services, rather than simply publicising certain outstanding social projects of the company, which does not reflect the true CSR position of the corporation. If this approach is followed, enterprises will not need to subject themselves to inspection, but can conduct self-betterment through reflecting on criticism from external parties. However, to make a self-declaration to the society, an enterprise shall have its own reliable mechanism to assure that labour standards are being effectively enforced. These mechanisms include good governance determined by an independent organisation whose role is recognised by all parties, a well-functioning and transparent trade union, and participatory labour relations management system.
- 16) Corporate social responsibility is not an obligation only to the government, entrepreneurs, workers, or consumers, but also to stakeholders. Thus, we need stakeholders who are activists and understand the CSR issue. These stakeholders will influence corporate decisions to take into account social equality when making business plans. Such activist stakeholders can be found among groups whose aims are not to make maximum profits, such as cooperatives, consumers' protection groups, trade unions, academics, and the media.
- 17) The media is an important institution in publicising information to the general public about good and bad businesses which can influence buying decisions of consumers. Thus, mobilising the enforcement of labour standards under the 2007 Constitution will require participation from the media.
- 18) Seeking a collective solution to a problem requires good knowledge management and a research database, and information and analyses that can be used during the

planning and monitoring processes. Hence, a central database that is accessible by all parties is required which contains information such as types of labour standards, types of industry, location of factories, number and size of enterprises, number of workers, cases of labour standard violation, partner organisations, expenses, consultation, records on requests for assistance in labour standard development, assessment, problems of compliance etc.

- 19) Further investigation is needed on how to make Thai enterprises of different industries adopt labour standards that are in line with the ILO Labour Standards and those of other institutions which are being developed in the globalising world, in order to eliminate problems of unequal labour treatments between exporting and domestic enterprises. Moreover, other areas that require the government support must also be identified, so that labour unions can organise more effectively and consumers can truly benefit from the implementation of good labour practices.

In conclusion, maintaining a balance between producing high quality products and adopting labour standards to upgrade the quality of life of workers requires involvement from all involved parties at international, national, and local levels. Implementing labour standards will open doors of opportunities to Thai exporters as well as improving the life of Thai workers. However, the success of labour standard implementation depends on various factors such as awareness, activism, and sensitivity of consumers when making purchasing decisions; trade union participation; strong consumers' protection movement; coverage of labour standards and trade in everyday life of workers and people; sustainable success of businesses; capacity building of different institutions; developing a system of a labour standards committee; improving labour inspection procedures and adopt certain aspects of the private codes of conduct model; innovating new working approaches; strengthening global and local networks of labour experts; and managing the knowledge and database system.

Moreover, direction of the government's labour and trade policies for national development is very crucial. The state, as the central organisation, needs to adjust mechanisms to induce cooperation from all concerned stakeholders at the national, industrial, and local levels to encourage them to take responsibility in promoting effective enforcement of labour standards for the sake of trade expansion. Commitment from the government and state agencies to the implementation of labour standards is something that export and domestic enterprises should follow. In addition, government support both in terms of human resources and finance, for the strengthening of various institutions including the network of state agencies, the private sector, and the people must be provided, with a clear vision of a common goal in mind.

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2. Mr. Kreetha Sobchoke, Head of Labour Office of Samut Sakhon – 28 January 2008.
3. Ms. Nisa Noptepkangwal, Director of Division of Thai Labour Standard Certification, Office of Labour Standard Development, Department of Welfare and Labour Protection 13 February 2008.
4. Mr. Kittipong Laonipon, Director, Division of Labour Standard System Development, Office of Labour Standard Development, Department of Welfare and Labour Protection, Ministry of Labour, 15 February 2008
5. Mr. Tim De Meyer, Labour Standards Specialist, International Labour Organisation, 18 December 2007.
6. Mr. Henry Lui , Marketing Director ; Castle Peak Holding Public Co., Ltd. 14 February 2008.

**Appendix 1**  
**Questionnaire**  
**Workplace Conditions**  
**Labour Inspector Volunteer Training Project**  
 By Nikom Chantarawitoon Foundation  
 with  
 “Labour Standards and Trade: Obstacles and Opportunities for Development”  
 Research Project  
 Financed by  
 the International Institute for Trade and Development (ITD)

Please answer the following questions:

Do you face the following problems at your workplace? Please explain, if any.

Issues	Yes	No	Problems faced
1. Use of child labour			
2. Use of forced labour			
3. workplace discrimination			
4. sexual harassment and threat of physical harm			
5. penalty rules			
6. freedom of association and rights to collective bargaining			
7. wage remuneration and benefits			
8. working hours			
9. overtime pay			
10. Use of female workers			
11. welfare and benefits			
12. occupational safety			
13. labour standards and labour protection management system e.g. documents, information etc.			
14. compliance to law and workplace rules.			
15. others			

Name of Respondent .....

Company's Name .....

.....

Type of Business

**Appendix 2**  
**Focus Group Participants By Industry/Type of Business**  
**July 2007-February 2008 (7 focus groups)**

No.	Industry	No. of people	Company/Association
1.	Electrical and electronic appliances	17	1. Sony Trade Union 2. Thai Yazaki Electricity Cord Trade Union 3. Electrical Appliances Federation 4. Employee Development Congress of Thailand
2.	Motor vehicles	19	1. Kawazaki Union 2. Winbest Relations Trade Union 3. Rak Kaew Relations Trade Union 4. Labour Development Employees' Federation of Thailand
3.	Food and Beverage	14	1. International Beverage Trade Union 2. Restaurants 3. Green Spot Co.
4.	Ceramics	5	1. Royal Porcelain Trade Union
5.	Non-governmental organisations	5	1. Children's Rights Protection Foundation 2. Nikom Chantarawitoon Foundation 3. Kenan Asia Institute
6.	Educational Institutes	5	1. Students from the Faculty of Social Sciences and Humanities, Mahidol University 2. Personnel Officer, International College, Mahidol University
7.	Government-State Enterprises	4	1. Ministry of Public Health 2. Water Metropolitan
8.	Services	4	1. PDI Trading Co. (export-import) 2. Settra Inter-Trade 3. Office Services Trade Union 4. Care and Clean Co.
9.	Export Transportation	2	1. Export Transport Trade Union 2. Suk Sawad Kit Taworn Trade Union
10.	Garment and Textile	1	1. Nakorn Luang Garment Trade Union
10.	Metal	1	1. Darlinee Trade Union
11.	Office Equipment	1	1. Tableware Trade Union
12.	Sportswear	1	1. Sportswear Trade Union
13.	Plastic products	1	1. East Polymer Trade Union
14.	Others	9	1. Researcher 2. Freelance worker
<b>Total</b>		<b>89</b>	



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- 1995      Ph.D. in Industrial Sociology (Labour and Organisation)  
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- 1987      Master of Public Administration (Organisation and Management)  
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- 1980      Bachelor of Science (Agricultural), Animal Science Section  
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Subcommittee on a Study for Principles and Concepts of Labour Administration,  
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Member of the Drafting Committee on Labour Codes of the Parliament

August 2005 – February 2006

Member of the Committee on the Establishment of the National Library of the  
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Consultant to the Labour Committee, House of Representatives

September 2001 – June 2004

Secretary, Subcommittee of the Commission on Human Rights, National Human  
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Consultant to the Labour Committee of The Federation of Thai Industries

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Director of Research Office and Editor of Research Journal, South-East Asia University, and Lecturer, Faculty of Business Administration, South-East Asia University

February 1998 – 2000 and 2001 – 2002

Member of the Committee on Promotion of Labour Relations (Tripartite)

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Committee of the National Advisory Council for Labour Development (Tripartite)

1998 – 2000

Deputy Executive Director and Academic Affairs Committee, Pridi Banomyong Institute

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Senior Fellow, Programme on Transnational Relations and Development Options (responsible for researches in the areas of Social Sciences and Humanities), The Thailand Research Fund

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Part-time Lecturer and Dissertation Supervisor for Bachelor, Master and Ph.D. degrees at public and private universities, e.g., Ramkhamhaeng University, Huachiew Chalermprakiet University, Rangsit University, Suan Sunandha Rajabhat University.

## **PRESENT**

December 2003 – Present

Secretariat, Nikom Chandravithun Foundation

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Head of Sangkomdhibataya Party

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Chairman of People and Democracy Party

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The Registration of Research Consultant, Fiscal Policy Office

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Member of the Committee for Nikom Chandravithun Foundation, Arom Pongpangan Foundation, Paisan Tavatchainun Foundation, Withithat Foundation

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6. Research Project on “*A Comparative Study on Labour Policy and Social Welfare in Developed Countries and Developing Countries*” (2002) (Funding from Ministry of Labour and Social Welfare) in cooperation with lecturers from Faculty of Social Work, Thammasat University, responsible for the areas of Labour Policy and Social Welfare in European countries, Nordic countries, Asian countries, Galveston Plan (USA) and Labour Market in Nordic countries, etc.
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## **SKILLS**

- Conducting, developing, and managing the research projects and training in interdisciplinary fields
- Managing and developing research and social service institutes and public interests-related organisations
- Lecture for undergraduate level in the areas of Concept and Theory on Society and Development; Organisation Development, Training, Labour Productivity; Labour Policy and Management on National Development; Industry Organisation and Business on Labour Administration; Labour Relations; Collaborative Bargaining; Social Security; Labour Welfare; Welfare for Less Opportunity People; Organisation Theory; Research Methodology; Human Rights; Cooperative Management; and Theory on Public Administration, Society and Development, Conflict and Social Capital, and Urban Business Planning and Managing

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**Mr. Suriya Yawichian**

**EDUCATION**

- |      |   |
|------|---|
| 2004 | Master of Business Administration (MBA) Executive Programme<br>Ramkhamhaeng University              |
| 1996 | Bachelor of Engineering in Chemical Engineering<br>Rajamangala Institute of Technology              |
| 1993 | Diploma in Textile Engineering<br>Rajamangala Institute of Technology, Chumporn Khet Udomsak Campus |

**TRAINING**

- NSAP Programme; Nike Audit training in Bangkok, Thailand
- FLA Programme Training in Delhi, India
- FWF Programme Training in Bangkok, Thailand
- Social Accountability 8000 (SA8000) Training Course by SAI
- WRAP (Worldwide Responsible Apparel Product) Programme by WRAP in Shanghai, People's Republic of China
- Web-based Training Course on Social Accountability 8000/ Asian Productivity Organisation
- Thai Labour Standard (TLS)- 8001 Auditor
- OH&S Management System Auditor / Lead Auditor: AJA Programme
- AVE (Foreign Trade Association of Germany) Workshop in Bangkok, Thailand
- McDonald's Social Accountability Audit in Bangkok, Thailand
- Nike Pre-sourcing Audit Programme in Bangkok, Thailand
- WRAP (Worldwide Responsible Apparel Product) Programme in Shenzhen, People's Republic of China
- Disney Social Accountability training in Shenzhen, People's Republic of China
- FLA Training in Shenzhen, People's Republic of China

**WORKING EXPERIENCE**

- |                |   |
|----------------|---|
| 2004 - Present | Deputy Manager – Labour Standard Division<br>Kenan Institute Asia   |
| 2004           | Labour Consultant<br>Cal Safety Compliance Corporation (CSCC)<br>1122 W. Washington Blvd, 3/F Los Angeles, CA 90015 |

2001 – 2003	Chief of Social Compliance Audit Department Bureau Verities Consumer Products Services (Thailand) Ltd.
1996 – 2000	Service Engineer (Post-sales) Incamtec Co., Ltd.
1993 – 1995	Chemist / Customer Service Officer SGS (Thailand) Co., Ltd.