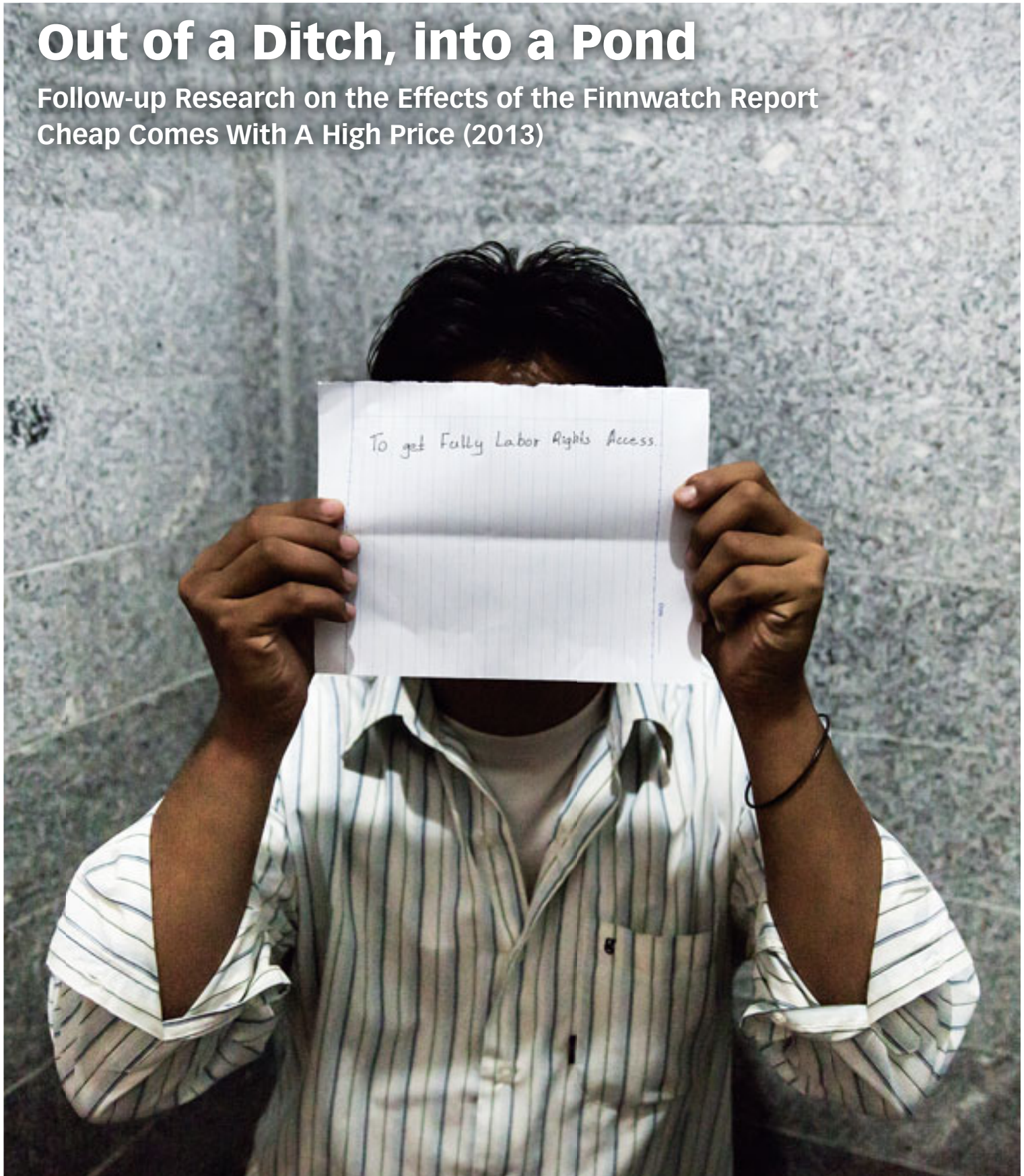


2/2014

Out of a Ditch, into a Pond

Follow-up Research on the Effects of the Finnwatch Report
Cheap Comes With A High Price (2013)



The report was produced as part of Finnwatch's Decent Work programme supported by:



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OUT OF A DITCH, INTO A POND

Follow-up Research on the Effects of the Finnwatch Report Cheap Comes With A High Price (2013)

THIS IS AN UNOFFICIAL TRANSLATION. THE ORIGINAL REPORT HAS BEEN PUBLISHED IN FINNISH AND IS AVAILABLE AT: www.finnwatch.org.

Finnwatch is a Finnish non-profit organisation that studies the responsibility of global business.

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Cover Photo: Meeri Koutaniemi. *Vita Food Factory worker wants to have equal labour rights.*

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Executive summary

The Finnwatch report *Cheap Comes With A High Price*, that was published in January 2013, revealed serious problems in Finnish retailers' tuna and pineapple product supply chains in Thailand. The report compared responsibility policies of SOK, Kesko, Tuko Logistics and Lidl. The report also included the results of field research that was conducted in Thailand on labour conditions for workers in Thai Union Manufacturing (TUM), Unicord (2) and Natural Fruit factories.

This follow-up report looks into potential improvements in Finnish retailers' responsibility policies as well as existing operations and conditions of the previously investigated Thai factories. This report examines also labour conditions at one of the Finnish retailers' new pineapple concentrate suppliers, Vita Food Factory, also in Thailand.

SOK, Kesko and Tuko Logistics have reacted seriously to the findings of the Finnwatch report that was published in January 2013. All the retailers entered into dialogue with their direct suppliers TUM and Unicord since the report was published and all officially also reported that they would put more attention on responsibility issues within their whole supply chains. Kesko and SOK have also conducted research on their private label product ingredients responsibility monitoring and have already made or planned changes in their purchasing contracts. Unlike these previously mentioned retailers, Lidl has not reacted to the report in any way and it didn't provide Finnwatch information about its Thai suppliers.

During the field research for this follow-up report, challenges were still found regarding labour conditions in Unicord 2 and TUM tuna factories. TUM still charges high fees for workers passports, visas and work permits. In Unicord, the factory had moved workers overtime break to the end of the working day and ignored workers complaint on the issue. Migrant workers clearly don't have enough knowledge of their rights and bargaining

power and there are no trade unions in these factories. The wage level in both of the factories is still at the legal minimum and there seems to be excessive overtime work. Under aged children continue to work in the factories using forged passports. Both factories however had active dialogue with Finnwatch since the previous report was published and have committed to several improvements to working conditions.

Finnwatch also investigated labour conditions in Natural Fruit, the factory that used to provide pineapple concentrate for Finnish retailers' private label products. Labour conditions in the factory were very similar compared to the situation that was reported in our January 2013 report. The factory, for example, paid the workers the legal minimum wage but deducted transportation costs from all workers whether they used transportation or not. According to the interviewed workers, Natural Fruit still doesn't provide workers permission to change employer and some of the workers still reported confiscation of their work permits and work permit receipts thus limiting their ability to change workplaces or employer.

After the publication of the Finnwatch report in January 2013, Finnish VIP-Juicemaker and its parent company Refresco stopped buying products from Natural Fruit and started using another supplier. One of these suppliers was Vita Food Factory, a factory that has now been investigated in this follow-up report through interviewing Vita Food Factory workers and local experts and community organisations. Using ILO indicators on human trafficking and forced labour, Vita Food seems to be involved in serious human rights violations. Vita Food Factory has produced pineapple concentrate that is used in Finnish private label products such as Pirkka-, Rainbow- and Eldorado-pineapple juices.

Although many of the Finnish supermarket chains have worked actively on improving

labour conditions in their supply chains, their effort hasn't been sufficient yet. Problems still occur because of long supply chains, use of multiple different suppliers in risk countries and approving Sedex SMETA-audits for responsibility certificates.

Corporate social responsibility is the responsibility of companies but also responsibility of states. States should sustain company's responsibility work by demanding compulsory human rights due diligence from these companies as well as making sure that victims of human rights violations have access to judicial remedies. The human rights situation in Thailand's export industries should be addressed also in free trade negotiations between the European Union and Thailand.

1. Introduction

The Cheap Has a High Price – Accountability of Private Label Products report published by Finnwatch in January 2013 received considerable attention in Finland and abroad. The report prompted debate on limitations related to the current procedures used by companies to monitor accountability and demonstrated serious problems, especially in long and poorly monitored risk country supply chains.

In this extensive follow-up study Finnwatch delves into what has taken place after January 2013. We ask Finnish retail chains and drink manufacturer VIP-Juicemaker for information on how they have changed their operations. The follow-up also includes a report on comprehensive field inspections at the Unicord 2 and Thai Union Manufacturing TUM tuna fish factories.

With regard to pineapple juice concentrate, we investigate what changes have taken place in the Natural Fruit factory’s working conditions and how the lawsuit the factory filed against Finnwatch researcher Andy Hall has progressed. In 2013, a separate field inspection on working conditions was also conducted at the Vita Food Factory, which produces pineapple juice concentrate for SOK, Kesko and Tuko Logistics.

This separate follow-up report was produced as part of the Finnwatch Decent Work Programme. The project was funded by JHL – the Trade Union for the Public and Welfare Sectors, Service Union United PAM for employees of the private services sector, Tehy – the Union of Health and Social Care Professionals, the International Solidarity Foundation, the Finnish Food Workers Union SEL, Trade Union Pro and Industrial Union TEAM.

In 2013 Finnwatch research revealed serious human rights offences and illegal activities in the supply chain of Finnish private label pineapple juice.



PHOTO: MIKKO JAAKKOLA

2. Findings of the report published in January 2013

The Cheap Has a High Price report published by Finnwatch in January 2013 investigated the accountability of private label products sold by Finland's largest retail chains. The four retail chains investigated were: S Group, Kesko, Suomen Lähikauppa/Tuko Logistics and Lidl Finland.

The report examined the practises and processes used by retail chains to guarantee the accountability of their supply chains, as well as delved into the adverse impacts of purchasing power on producers in developing countries. The report included two case studies, which illustrated the accountability of private label products marketed in Finland.

The accountability practises used by the investigated retail chains were compared in six different areas: position of corporate responsibility within the organisation, principles of accountability in procurement of private label products, how principles of accountability are monitored, how the principles of accountability are communicated to suppliers, the principles of accountability in procurement activities and the principles of accountability of the chain's joint procurement company. Additionally, the report assessed the openness of chains as well as their readiness to share information on their supply chains.

Tinned tuna fish and pineapple juice processed in Thailand were selected as the sample products for the field inspections. Private label products have traditionally been strong contenders in both product groups. The investigation into tinned tuna fish illustrated the challenges related to direct procurements by retail chains from risk countries and pineapple juice the challenges of indirect procurement from risk countries.

The findings of the field inspection published in January 2013 were startling. Not all the interviewed workers at the investigated tuna fish factories (Thai Union Manufacturing TUM and Unicord 2) had written employment contracts, the workers were obligated to pay

high recruitment (broker) fees, there were under-aged children working in the factories, there were problems with freedom to associate and migrant workers were discriminated against in numerous ways.

The investigated Natural Fruit factory, which produces pineapple juice concentrate, flagrantly violated Thailand's laws and human rights. The factory's workers included undocumented workers who had been smuggled into the country, as well as under aged children. The factory did not pay its workers the minimum wage required by the law, forced workers to work overtime and did not grant annual holidays to its workers. The factory had confiscated passports and work permits from migrant workers and prevented them from changing place of employment. Migrant workers were discriminated against and encountered violence in the workplace. The factory's conditions alluded to the indicators of forced labour and human trafficking.

On the basis of the investigation's findings, Finnwatch recommended a number of different procedures that Finnish retail chains should undertake in order to guarantee the accountability of their supply chains. Instead of terminating business relations with the producers, Finnwatch recommended that retail chains work together with producers to change their procedures and practises, especially in the case of the Natural Fruit pineapple juice concentrate factory, which was guilty of gross violations. Finnwatch requested that retail chains also commit to developing the accountability of private label products throughout their supply chains, as well as to define risk country suppliers in a new way.

3. Response of Finnish retail chains to the report published in 2013

As part of the follow-up investigation, Finnwatch sent questionnaires to all four of Finland's largest retail chains, all of which were investigated in the 2013 report. SOK, Kesko and Tuko Logistics, the suppliers of which were investigated in the published report, all received the same list of questions. Lidl received a shorter questionnaire, as its private label products do not originate from the factories inspected for the 2013 report.

In the following paragraphs, we will take a look at the replies submitted by each company.

3.1 SOK

S-Group is a corporate network of retail stores and service sector companies, which has over 1,600 places of business in Finland. S Group is made up of a consumer cooperative and Suomen Osuuskauppojen Keskuskunta (SOK) and its subsidiaries. S Group services include convenience and consumer goods stores, service stations and gasoline purchase points, tourism and restaurant trade and auto and auto supply sales points as well as agricultural sales.¹ The S Group's market share of retail sales in Finland is 45.6%.²

What transformational measures or procedures have you implemented after Finnwatch's Cheap Has a High Price report was published?

"Once we received knowledge of the situation, we immediately started the process of looking into the matter with our suppliers. Over the spring and summer, we sent out a survey to our suppliers in which we asked them about the accountability practices they have in place. The survey delved

into matters such as the types of accountability requirements our suppliers had in place for their suppliers, producers and raw material suppliers and how the realisation of these requirements is monitored. More detailed requirements for accountability will be included in our new procurement agreement, which we plan to adopt in 2014. These requirements will also apply to production of raw materials.

At the end of August, a group from SOK met with our most significant suppliers of juice materials, tinned pineapple and tinned tuna fish in Thailand. On the same trip, the group from SOK also visited the migrant workers network for workers from Myanmar and met with representatives from four different government ministries. All the meetings focused on comprehending and improving the working conditions of factory workers, especially migrant workers. During meetings with suppliers, the group run through the S Group's expectations with regard to accountability.

We have also discussed matters related to working conditions, working hours and migrant workers in two meetings with Ambassador of Thailand in Helsinki. The ambassador also organised a meeting between SOK representatives and authorities in Bangkok.

We passed on the findings of Finnwatch's report to the BSCI, so that solutions to these problems could be sought through the international network. In 2013, BSCI organised two events for its interest groups that dealt with the rights of migrant workers in Thailand. SOK has also highlighted the report during the BSCI Code of Conduct's update process.

We have shared information on procedures, plans and challenges openly with our customers and other stakeholders throughout the past year.

1 S Group, <https://www.s-kanava.fi/web/s-s-ryhma/s-ryhman-rakenne> (viewed on 14.1.2014)

2 Taloussanomat, <http://www.taloussanomat.fi/kauppa/2013/03/27/s-ryhma-paisui-viime-vuonna-alepa-118-/20134598/12> (viewed on 14.1.2014)

Did the findings of this report change the way in which your organisation will assess human rights risks in the value chains of your private label products?

"We had already recognised that our practises were not sufficiently comprehensive with regard to assessment of risks. Practises have been defined more clearly, so that we now also take into account the raw materials made in risk countries and used by our suppliers based in non-risk countries. Long supply chains have been recognised as a risk, which can make it more difficult to determine a product's origin. With regard to long supply chains, we are evaluating whether it would be possible to shorten them.

More detailed requirements for accountability will be included in our new agreement that we plan to adopt in 2014. These requirements will also apply to the production of raw materials.

In what way have you guaranteed the accountability of your current Thai juice suppliers?

"SOK does not have any direct juice suppliers based in Thailand. We are aware of all the Thailand-based companies that supply raw materials for our private label products and have initiated auditing processes. We have agreed with our direct suppliers that we require all raw material suppliers based in Thailand to be participants or initiate participation in the SA8000, BSCI or other similar process. Our current direct supplier for Rainbow pineapple juice VIP-Juicemaker Oy has become a participant in the BSCI and committed to abiding by the BSCI Code of Conduct."

Have you spoken directly with any of the companies investigated in Finnwatch's report (Unicord, TUM and Natural Fruit)? If so, what results do you believe you have achieved through this dialogue?

"SOK has increased dialogue with Sea Value (Unicord) and Thai Union Manufacturing on matters related to accountability. We have discussed grievances reported by both

BSCI – Business Social Compliance Initiative

Finnish retail chains SOK, Kesko, Tuko Logistics and Lidl are all BSCI participants. After Finnwatch published the Cheap Has a High Price report in January 2013, Refresco also became a BSCI participant.

The BSCI is a business-driven network committed to accountability. Over 1,100 companies are participants. The network maintains a database on BSCI audited suppliers and improves the accountability of companies' supply chains in risk countries.

The BSCI requires that two-thirds of the risk country suppliers used by each participant are audited (with a grade of good or in need of improvement) within five years of the participant joining the system. The BSCI only focuses on guaranteeing the accountability of direct or first tier risk country suppliers.

Finnwatch and the suppliers themselves, as well as the procedures and conclusions that are required. In September 2013, SOK met with all the suppliers in question in Thailand.

Due to increased dialogue, both sides now have a better understanding of the issues at hand, and for the most part commitment and openness has increased. Suppliers wish to meet with customer expectations, awareness of matters related to accountability is good at the factories in which third party inspections took place and matters have progressed in the right direction. By including matters of accountability into trade negotiations we can bring about change. However, guaranteeing the accountability and transparency of long supply chains is a long process that we are committed to.

Together with its suppliers, SOK has also held talks with Natural Fruit on the issues brought forth in Finnwatch's report, although our juice supplier cut its ties with Natural Fruit after the grievances were brought to light. At the end of August 2013, SOK met with the company's representatives in Thailand. SOK has

no knowledge of whether Natural Fruit has adopted any international auditing process for social accountability. However, we believe that our dialogue increased the company's understanding of the expectations of European companies with regard to a commitment to international standards of social accountability.

Have you shared information on the current limitations related to monitoring the accountability of private label products with consumers?

"We have openly communicated about the extent of monitoring with regard to accountability in S Group's communication channels and accountability report. At the time the report was published, we also reported on the matter and brought it to light in numerous interviews. S Group's own communication on the topic can be found on the S-kanava webpages, Patarumpu blog and the Yhteishyvä magazine.³"

Have you drafted accountability guidelines for your own procurement activities, which are open to the public⁴?

"In April 2013, SOK signed the letter of intent on the Principles for Good Practice⁵. Additionally, the BSCI Code of Conduct, which SOK has committed to, includes practical instructions for mitigating the negative impacts of procurement practices."

3 Examples of communications regarding the topic at: http://www.s-kanava.fi/uutinen/pitkien-tuotantoketjujen-vastuullisuuden-valvonnassa-paljon-parannettavaa/406649_10816, <http://patarumpu.fi/2013/08/26/matka-thaimaan-tehtaisiin/> ja <http://www.yhteishyva.fi/yhteishyva-lehti/oikeus-reiluun-tyohon/0218010-243096>

4 Here, accountability guidelines for procurement activities refers to instructions that prevent the abuse of purchase power in a way that is detrimental for producer, i.e. haggling, sudden changes in orders, etc.

5 More information on these principles at: <http://www.supplychaininitiative.eu/>

3.2 KESKO

Kesko is a listed company that sells food, consumer goods, hardware, auto supplies and machinery. Kesko's chains include approximately 2,000 stores in Finland, Sweden, Norway, Estonia, Latvia, Lithuania, Russia and Belarus.

Kesko and independent K food stores make up the K-ryhmä group, which has a total of 1,000 grocery stores. Kesko Food manages K-citymarket, K-supermarket, K-market and K-extra stores and markets. K-ryhmä's market share of Finland's grocery sales is 34.7 per cent.⁶

What transformational measures or procedures have you implemented after Finnwatch's Cheap Has a High Price report was published?

"After the report was published, we carried out an inquiry which applied to all the suppliers (approx. 3,000 products, approx. 700 suppliers) that produce our private label products (Pirkka, Euro Shopper, Menu). We asked suppliers to tell us the materials from risk countries that the products may contain, as well as the accountability certificates granted to the risk country raw materials and /or audits conducted at production locations. There were raw materials from risk countries in approximately one-third of fresh products, two-thirds of industrial products and half of household supplies. Just under one-fifth of the raw material producers had an accountability certificate. It is very likely that these materials from risk countries are used commonly in the production of other products and not just in the production of Kesko Food's private label products.

Based on the results of the enquiry, we added a section on guaranteeing the accountability of raw materials in our procurement agreement. Additionally, our procurement units emphasise the importance of guaranteeing accountability during negotiations and other communication with suppliers.

6 Kesko, <http://www.kesko.fi> (viewed on 14.1.2014); Taloussanomat, <http://www.taloussanomat.fi/kauppa/2013/03/27/s-ryhma-paisui-viime-vuonna-alepa-118-/20134598/12> (viewed on 14.1.2014)

Did the findings of this report change the way in which your organisation will assess human rights risks in the value chains of your private label products?

“As we stated above, we carried out an enquiry on guaranteeing the accountability of the raw materials used in our private label products, and we are updating our procurement agreement.

Our assessments are carried out in the same way as previously in accordance with international agreements, the BSCI Code of Conduct and other applicable material.

Our action plan for 2014 includes an assessment of human rights impacts in line with the UN’s guidelines: implementation of the Protect, Respect and Remedy framework; the guiding principles on business and human rights.”

In what way have you guaranteed the accountability of your current Thai juice suppliers?

“We do not have any juice suppliers based in Thailand. If the question refers to the guarantee procedures carried out by our Pirkka pineapple juice supplier (VIP Juicemaker Oy, Kuopio) with regard to the raw materials it has procured for its pineapple juice concentrate, the table below shows a list of VIP’s juice suppliers based in Thailand.”

Have you spoken directly with any of the companies investigated in Finnwatch’s report (Unicord, TUM and Natural Fruit)? If so, what results do you believe you have achieved through this dialogue?

“We have had talks with both Unicord and TUM. We have critically assessed the operations of both factories and asked them to improve their practices. We have clearly emphasised this in our discussions. Both Unicord and TUM have carried out changes at their factories after the report was published. TUM has been re-audited and Unicord has been issued a strong request to become a BSCI participant (previously Sedex audited). In May 2013, our representatives visited both factories and went through matters related to social accountability in detail.

In November 2013, we visited TUM again at the same time as the BSCI together with the International Labour Organization (ILO) organised a Round Table in Bangkok. We spoke about working hours, wages and salaries, the problems related to the use of Myanmar and Thai brokers and interpreters, ensuring the age of workers and the position of migrant workers at the factory. Additionally, we went through the findings of the Finnwatch report and TUM’s response to these. Representatives of both TUM and Unicord also participated in the BSCI/ILO meeting. In addition to the aforementioned topics, issues such as the lack of freedom to associate and the problems caused by

Company Name	BSCI	SEDEX	SA 8000	Comments	Address in Thailand
Tipco Foods Publics Company Limited	x	x		Audited and correction plan in place for BSCI and SEDEX	212 Moo 16 Phetkasem Road, Muang District, Aownoi. Prachuapkirikhan 77210
Vita Foods Factory		x		Audited and correction plan in place for SEDEX	39/3 Moo 7, Tambol santor, Amphur Tah-Maka, Kanchanaburi 71120
Thai Pineapple Canning Industry Co., Ltd		x		Audited and correction plan in place for SEDEX	11/3 Moo 2, Petchkasem Road, Tambol Kaonoi Amphur Pranburi, Prachub Kirikhan 77120
Siam Agro-Food Industry Public Co., Ltd. (Saico)	x	x		Audited and correction plan in place for BSCI and SEDEX	363 Moo 2, Self-Help Land Settlement No. 13 Road, Nikom Pattana, Rayong 21180
Siam Food Products Public Company Ltd.	x			Audited and correction plan in place for BSCI	218 Moo 8, Sattaheep-Chachoeng-sao Road, Tambol Nong-Irun, Amphoe Banbung, Chonburi 20170

Thailand's poor migrant policy were discussed at the roundtable.

In our opinion, TUM has taken the criticism seriously and is striving to develop its operations. The factory has also welcomed Finnwatch's researchers, which demonstrates that they are prepared for dialogue and openness. The factory has sufficient management systems and persons of responsibility in place, which means that it will be possible to implement improvements. TUM's factories are BSCI audited. According to the audit reports, they largely comply with Kesko Food's requirements, with the exception of working hour criteria, as Thailand's working time legislation and ILO's conventions (BSCI's requirements are based on these) are at odds with one another. We believe that it is most important to ensure that working overtime is voluntary, the wages paid for overtime are in accordance with the law and that workers are not required to work overtime continuously or excessively. TUM seemed to have a positive attitude toward the improvements we proposed, as well as our request that they share information on the procedures they had implemented more actively.

VIP-Juicemaker and its parent company Refresco terminated cooperation with Natural Fruit after the Finnwatch report was published. However, this was not what Kesko Food would have wanted. Our view was and is that the objective should always be to remedy problems according to a clear plan and schedule. Causing further problems for the "problem company" by weakening its financial standing will not help in remedying these problems or in improving the rights of workers. Cooperation should only be terminated in cases where problem companies have no inclination to take on corrective procedures."

Have you shared information on the current limitations related to monitoring the accountability of private label products with consumers?

"After the Finnwatch report was published, we published a statement on the matter on

our webpages⁷ and answered inquiries by the media. In April 2013, we covered the report and its observations more extensively in our social accountability report. Additionally, we have brought the topic forth in various presentations held for stakeholders and in social media.

As we stated above, it is important to note that there are limitations in monitoring the accountability of products produced by numerous producers, not only private label products.

Have you drafted accountability guidelines for your own procurement activities, which are open to the public⁸?

"In order to improve vertical relationships in the European food supply chain, the EU Commission as well as EU organisations linked to the food supply chain have agreed on a the Principles of Good Practice in Vertical Relationships in the Food Supply Chain⁹. The Food Kesko Board has for its part decided to commit to implementing these principles of good practice. Companies that join this self-regulated system commit to abiding by the principles of good trade practices. The principles prohibit the use of unjustified oral agreements, transferring disproportionate risks to another contracting party or threatening a contractual party in order to achieve an unfair advantage. Realisation of these principles is monitored nationally and by the EU. Every Kesko Food employee commits to abiding by the Principles of Good Practice in Vertical Relationships in the Food Supply Chain.

The Terms of Implementation for the BSCI's new Code of Conduct also include a section related to procurement practises for members of the initiative.

7 Kesko's statement <http://www.kesko.fi/fi/Vastuulisuus/Ajankohtaista/Ruokakeskon-kannanotto-Finnwatchin-raporttiin-kaupan-omista-merkeista/> (viewed on 14.1.2014)

8 Here, accountability guidelines for procurement activities refers to instructions that prevent the abuse of purchase power in a way that is detrimental for producer, i.e. haggling, sudden changes in orders, etc.

9 More information on these principles at: <http://www.supplychaininitiative.eu/>

3.3 TUKO LOGISTICS

Tuko Logistics is a range, procurement and logistics service for retail stores, which is owned and used by Suomen Lähikauppa Oy, Wihuri Oy, Stockmann Oyj ABp and Heinon Tukku Oy. In 2012, Tuko Logistics' turnover was 792 million euros, and the company employed 700 people.¹⁰

What transformational measures or procedures have you implemented after Finnwatch's Cheap Has a High Price report was published?

"Tuko has initiated the process of opening raw material supply chains regardless of where a product is produced, as well as inspecting the way in which the actors within chains assess and guarantee the accountability of the suppliers they use, from production through to the end of the chain. A chain might be very long, which makes it more difficult to control its transparency."

Did the findings of this report change the way in which your organisation will assess human rights risks in the value chains of your private label products?

"Yes. We have previously focused on the accountability of the final product and monitoring the working conditions in its production, but as was stated in our previous answer, we have initiated the process of opening entire supply chains and increasing the transparency of our private label products."

In what way have you guaranteed the accountability of your current Thai juice suppliers?

"VIP Refresco Scandinavia (VIP-Juicemaker) continues to produce Eldorado pineapple juice. VIP no longer acquires its raw materials from Natural Fruit, and we have received a list from VIP that includes the juice suppliers they have used for the production of Eldorado juice in 2013."

At the end of 2013, Tuko visited its suppliers based in Thailand. We also met with VIP's current juice concentrate suppliers, with the exception of representatives from one factory (the factory's location was difficult to fit into our travel itinerary), and in this instance we did meet with the company's representatives and visited their other factory. We went through the factories' certifications and audits, which an independent third-party had carried out at the factories in question."

The majority of these suppliers had one of our approved monitoring models in place (these include SA8000 certification, BSCI auditing or SEDEX reporting), or were in the process of implementing these audits. All the suppliers were aware of the situation and its importance. While at the factories we discussed the situation and carried out spot check-like inspections and posed further questions to the reports we had received. We encouraged the suppliers to continue this work so that the rights and working conditions of workers (which were now better than at the beginning of 2013) would continue to develop in a positive way."

In the future, we will work to further open up the supply chains of products such as juice, in which chains are long and difficult to monitor comprehensively. "

Have you spoken directly with any of the companies investigated in the Finnwatch report (Unicord, TUM and Natural Fruit)? If so, what results do you believe you have achieved through this dialogue?

"Yes. Tuko only uses Unicord's tuna fish factories as suppliers, but we also met with TUM's representative on our trip. Unicord has improved its operations from what they were in January. Unicord understood that the accountability of their operations in all areas was extremely important. We will continue to work with Unicord in monitoring the improvement of working conditions and equal working conditions. After we met and spoke with the representatives of MWRN¹¹

¹⁰ Tuko Logistics, <http://www.tuko.fi/> (viewed on 14.1.2014)

¹¹ Migrant Workers Rights Network, a non-governmental organisation that focuses on promoting the rights of migrant workers in Thailand.

and LPR¹², we came to the conclusion that the situation is better in the fish industry than e.g. in the tinned pineapple and fruit industry. The situation has also improved in part due to ILO's Good Labour Practises Programme¹³, which is at this point geared towards the fish industry.

We have not been in contact with Natural Fruit. The company was never our direct supplier and the producer of our product has terminated cooperation with them.

Have you shared information on the current limitations related to monitoring the accountability of private label products with consumers?

"Tuko is not in direct contact with consumers, but when asked, we have commented on the extent of the matter and the difficulties involved, especially with regard to long supply chains. After the Cheap has a High Price report was published in January, we also replied to questions we received from consumers and told of the limitations related to the matter. However, we have strived to openly communicate on the work we have carried out in e.g. our social accountability report.

Have you drafted accountability guidelines for your own procurement activities, which are open to the public¹⁴?

"Tuko has already had internal ethical guidelines for procurement for quite some time, and in spring 2013, we published these on Tuko's website (www.tuko.fi). Tuko has also signed the Finnish Commerce Federation's Principles of Good Trade Practises¹⁵."

3.4 LIDL

LIDL is a German convenience store chain that operates in 25 European countries. It is estimated that Lidl Suomi Ky's market share in Finland is 5.5%¹⁶.

The Finnwatch report published in 2013 did not cover Lidl's Thailand-based suppliers. At that time, the corporation's tuna fish did not come from Thailand, and according to Lidl, the investigated Natural Fruit factory did not supply raw materials for its products.

As part of the follow-up report, Finnwatch asked Lidl again about its possible Thai tuna fish and pineapple suppliers. According to Lidl, its fruit juice is still produced in Italy from the same raw materials (a mix of Thai and South African juices). Lidl's tuna fish is not from Thailand.

Unlike the other store chains interviewed by Finnwatch, Lidl refused to disclose the names of its suppliers in Thailand, claiming competition as the reason. Lidl also refused to disclose whether its Thai supplier has been BSCI audited.

Like the other investigated store chains, Lidl has also signed the Principals of Good Practise.¹⁷

12 Labour Rights Promotion Network, a non-governmental organisation that focuses on promoting the rights of migrant workers in Thailand.

13 More information at http://www.ilo.org/asia/whatwedo/publications/WCMS_221481/lang--en/index.htm

14 Here, accountability guidelines for procurement activities refers to instructions that prevent the abuse of purchase power in a way that is detrimental for producer, i.e. haggling, sudden changes in orders, etc.

15 More information on these principles at: <http://www.supplychaininitiative.eu/>

16 Taloussanommat, <http://www.taloussanommat.fi/kauppa/2013/03/27/s-ryhma-paisui-viime-vuonna-alepa-118-/20134598/12> (viewed on 14.1.2014)

17 More information on these principles at: <http://www.supplychaininitiative.eu/>

4. Response of Refresco Gerber and its Finnish subsidiary VIP-Juicemaker to the Finnwatch report published in 2013

Retail chains SOK, Kesko and Tuko Logistics did not directly procure the raw materials for their private label pineapple juices. Instead, VIP Juicemaker and its Dutch parent company Refresco Gerber were responsible for these procurements.

Vip-Juicemaker Oy, which was founded in 1996, produces juices, juice beverages, health and wellness drinks, energy drinks and soft drinks. In 2012, Vip-Juicemaker's turnover was 62 million euros.¹⁸

Vip-Juicemaker is part of the Dutch drinks corporation Refresco, which merged at the end of 2013 with Gerber Emig and formed the new Refresco Gerber. Refresco Gerber has 30 factories in nine European countries and its mission is to offer local services to local clients. Refresco's subsidiaries benefit from the parent company's concentrated raw materials procurements. Refresco Gerber believes that cost price leadership gives the company a competitive edge. In 2012, Refresco's turnover was approximately 1.5 billion euros.¹⁹

Finnwatch asked VIP-Juicemaker for information on how the company has developed the accountability of its raw materials suppliers after the Finnwatch report was published in 2013.

In what ways have you guaranteed the accountability of your new suppliers based in Thailand?

"We have worked to guarantee the accountability of the pineapple juice suppliers based in Thailand that are part of our supply chain by adding a requirement to our procurement agreements that suppliers and producers commit to abiding by local and EU legislation. Additionally, we have demanded that producers commit to abiding by international accountability practises. All our current pineapple juice concentrate producers have confirmed that they abide by the aforementioned legislation. The producers of VIP-Juicemaker's pineapple juice concentrate have also committed to either the SEDEX or BSCI process, and they have been audited in accordance with SEDEX or BSCI criteria.

Refresco attains the majority of the pineapple juice concentrate it uses through suppliers such as Prodalimin B. V from Israel. These suppliers procure pineapple juice concentrate from numerous Thai producers. In order to monitor the realisation of accountability better than previously, we have asked our suppliers to carry out additional audits in Thailand.

In summer 2013, VIP-Juicemaker visited Natural Fruit, as well as three other pineapple juice concentrate producers together with a client. During the meeting, we covered the accountability procedures and practises we require from suppliers, as well as the monitoring of these."

¹⁸ Vip-Juicemaker Oy, <http://www.vip-juicemaker.fi/index.php?id=11> (viewed on 14.1.2014)

¹⁹ Refresco Gerber, <http://www.refrescogerber.com/gerber-emig-and-refresco-complete-transaction/>; Refresco Annual Report 2012, can be accessed at: <http://refresco.com/ar/2012/>

Have Refresco's procurement practises changed in any way after Finnwatch published the Cheap Has a High Price report?

"We have gone through our procedures and procurement practises. We have edited our procurement agreements with regard to the aforementioned points. We strive to improve the transparency of our supply chain, by requiring that our direct suppliers submit detailed information on all the producers they acquire products from.

We have previously committed to procuring raw materials for juice from SGF-IRMA²⁰ approved producers. At our request, SGF²¹ has initiated the design and adoption of an improved accountability programme. The objective is that the accountability programme covers social accountability better than it has previously.

The process of getting producers located in risk countries to participate in internationally approved accountability practises will take time, but we are committed to seeing the process through together with our clients."

20 The juice industry's self-regulating system that focuses on quality audits for raw materials for juice. More information on the principles at: http://www.sgf.org/fileadmin/user_upload/Dokumente/Antragsformulare/CoC_PS.pdf

21 SGF, Sure-Global-Fair, a juice industry association

5. TUM and Unicord 2 – follow-up study in Thailand

Finnwatch conducted a follow-up study in Thailand in November 2013. During the field research 19 Unicord (2) workers and 14 TUM workers were interviewed with the help of local researchers. Moreover, representatives of the company were met in person. A representative of Finnwatch also visited factory production facilities and following the factory visits interviewed five more workers. The aim of the additional interviews conducted by Finnwatch was to clarify information received in previous worker and factory interviews. Additionally, three workers of Unicord (1) were interviewed. Together 46 workers were interviewed in total for this follow up research.

All of the interviews were conducted with the help of a Myanmar interpreter specialised in migrant issues.

The study focused on examining how the working conditions in the factories had changed since the publication of the previous report by Finnwatch in 2013.

5.1 UNICORD STILL KEPT ORIGINAL WORK PERMIT RECEIPTS

Follow-up interviews with workers at TUM showed that no confiscation of passports or work permits existed at present. This is a notable improvement as it guarantees that workers can change employer or return to their home country more easily.

Unicord still kept the original receipt of workers' work permit payment slips. The workers were only provided with a flimsy copy of this receipt. When meeting Unicord company's directors they assured Finnwatch that they would return the original receipt to the workers the following week, as previously advised in the first report. Now Unicord has updated its policy and keeps workers work permit receipts only when it reports workers presence to Thai immigration officials every 90 days.

Workers at TUM reported recruitment payments between 1 500 and 5 000 baht. Some of the workers reported that their friends had been cheated by job recruiters, promised a job at a tuna processing factory but after entering the country discovered that there was no job on offer. TUM told Finnwatch that it had forbidden the collection of recruitment



Thai Union Manufacturing is situated in Samut Sakhon, Thailand.

payments and had published a separate announcement about the issue to all of its personnel.

Just as the workers interviewed in 2012 reported, interviewed workers from Unicord 2 in the field research for this follow up report again alleged the factory's interpreters were involved in job recruitment activities. The workers felt that the interpreters were not on their side but instead were taking advantage of migrant workers. Unicord told Finnwatch that the company will organize extra training for translators. Translators names and phone number will be also put on the factory's notice board so that workers could complain if any of the translators were acting in an inappropriate way.

5.2 TUM WORKERS PAY HIGH FEES, SUBCONTRACTOR OF TUM PARTICIPATES IN CORRUPTION BY THAI OFFICIALS

The workers at TUM had to pay higher costs for passports, work permits and visas than what would be a normal rate set by the government. The higher costs were due to the fact that TUM still utilised Thai Golden Mile Service recruiting agency for the hiring and documentation of workers. In this respect the factory's practices have remained unchanged compared to the situation at the time of the publication of the previous Finnwatch's report. According to the factory, an independent recruiting and human resources agency has been utilized for business administration reasons.

The normal cost of documents for migrant workers are 500 baht (12 euros) for a visa, 550 (13 euros) baht for a passport and 1 900 (45 euros) baht for a two year work permit. The total cost amounts to 2 950 baht (70 euros). When applying for an extension of permission to stay and work in Thailand another 500 baht is due for the visa and 1 900 baht for the work permit as well as a small fee for the extension of some documents' validity. In total the costs for extending the permits for another 2 years is around 2 520 (60 euros) baht.

Workers at TUM had to pay for these documents almost a threefold amount: 9 100 baht (215 euros) for the initial registration and 5100 baht (121 euros) for the extension of the documents validity. According to TUM 9 100 baht costs were charged under unusual circumstance at the end of 2012 when all migrant workers had to travel to the Thai-Myanmar border for nationality verification. According to TUM the expense of 9 100 baht can be broken down to 550 baht for a passport, 500 baht for a visa, 3700 baht for 2 year work permit, 600 baht for health check, and 3 750 baht for traveling, accommodation, meals and other administrative expenses, with some subsidy by TUM.

In addition, interviews revealed how the subcontractor of TUM had enabled corrupt officials to charge an additional illegal 1 000 baht (24 euros) fee for renewing visas. For these payments the workers said the subcontractor's personnel issued receipts saying "Immigration department cost requested as additional charge when renewing visa". Finnwatch holds copies of these receipts.

The workers were furious about the extra costs. When acknowledged, TUM told Finnwatch it had conducted a serious investigation and took a corrective action by giving a warning to the subcontractor prohibiting any future acts of such kind and reimbursing the extra cost incurred to the workers. According to TUM it will closely monitor the work of the subcontractor and take any necessary steps to prevent any forms of corruption. However TUM didn't report corruption to the police and it's cooperation with Thai Golden Mile Service continues. Workers continue to report excessive fees paid to immigration officials.

Finnwatch investigated connections between Thai Golden Mile Service and TUM and found out from a Thai company register that there was a family relationship between directors of the two companies. TUM confirmed the family relation but stated that the directors are only distant family. According to TUM, the director and one of the owners of Thai Golden Mile Service is a former TUM employee.

According to Finnwatch TUM should reimburse workers all extra costs that workers are facing because of TUM utilizing Thai Golden Mile as a service provider.

5.3 UNICORD HAD REPLACED A WORKERS' STATUTORY BREAK TO TAKE PLACE AFTER WORK

Interviewed workers reported how Unicord had denied workers' right to a statutory break of 20 minutes before the start of overtime work as of the end of 2012. Instead the workers had to wait for 30 minutes at the factory facilities after work before they could clock out and go home.

Finnwatch believes the practice was applied as if the workers had their break before the start of the overtime shift, that would entail the need to switch off the machines and hence reduce the factory's productivity. When the machines are kept operating throughout the entire work shift the factory will save on costs.

The practice is illegal. The workers were unsatisfied with the situation and had tried to change it by engaging into negotiations with their supervisor and the factory's management. This resulted in no change of conditions. Additional information can be found in chapter 5.6.

After dialogue with Finnwatch, Unicord admitted this practice and promised to correct the situation. According to Unicord, overtime breaks are now also announced on the factory board.

5.4 PROBLEMS ENCOUNTERED WITH WORKERS' SOCIAL SECURITY AND ANNUAL LEAVE

Many of the interviewed workers at TUM reported not possessing a card that would give them the right to social security (SS). Still a 5 percent social security fee had for a long time been deducted from their salaries. The workers have repeatedly asked for these cards, but despite their persistent requests cards had not been provided to them. When acknowledged, TUM told Finnwatch that it had started collaborating with the social security office to speed up the process of issuing the cards. According to the company, the worker whose card is not yet issued can reimburse medical expenses due to occupational illness from TUM.

Many of Unicord's workers did not have a SS card also. However, in their case no deductions from their salary had been made either. According to Unicord, the factory complies with Thai law and hence workers who have not yet received their SS card can go to a hospital and will be covered by an insurance contract between Unicord and the hospital.

Some of the interviewed workers at Unicord reported however they were forced to buy a Ministry of Public Health (MoPH) hospital card at a cost of 2 800 baht despite the fact that they had entered the country via the MoU migration process. According to Thai law, a separately purchasable hospital card is only meant for those workers who do not have a passport. The workers who have come to work in Thailand via the MoU process have a passport and, in that case, to charge a fee for a hospital card is illegal.



Tuna factory workers living area in Mahachai.

The interviewed workers at TUM reported only receiving four days of paid and two days of unpaid annual leave per year. When Finnwatch met TUM's representatives they explained there to be a misunderstanding. According to the factory, the workers are being provided six days of leave out of which four days can be taken at any occasion decided by the workers themselves and two days on dates decided by the employer only.

After Finnwatch met again with some of TUM's workers and informed them on the factory's response, the workers claimed that there was no such misunderstanding as they were sure that the factory only paid for four annual leave days. However, none of the interviewed workers had their salary slips archived so that the matter could have been verified. Finnwatch encouraged the workers to archive their documents in the future in order to ensure clarity.

5.5 UNDERAGE WORKERS WITH FORGED PASSPORTS

The interviewed workers reported again that underage 15–17 years old children were still working in the factories. In Thailand, working for over 15-year-old children is legal but they are not allowed to work long hours. According to interviewed workers,

the underage children working in the factory have passports with a wrong birth date.

Finnwatch's Executive Director met a 18-year-old girl, who had already been working in the TUM factory for two years. During all that time she had been doing six-day work week with full eight-hour working hours plus overtime each day.

The interviewed girl told Finnwatch that on her passport, issued by Burmese officials, her birth date was falsely stated. According to the workers at the passport issuing offices, Burmese speaking persons are requested to provide an identity certificate. However, should he or she not have one, the officials will issue the passport with the age declared by that person. If doubts on a person's age arise, a bribe worth a few hundred baht to the officials will prevent further queries.

According to TUM and Unicord, it is difficult to tackle this problem. The companies say that such challenges arise in many factories in Thailand. At the same time, the companies seem to actively try to deny the existence of the problem and avoid speaking about it. For instance, Unicord supplied Finnwatch with a copy of an SMETA auditing report in which it stated there were no children working at the factory in breach of Thai law. The auditing was preformed by SGS Thailand and sent to the customers of Unicord. Unicord also

denied all child labour in its statement on 29 of January 2013²².

TUM has commented on Finnwatch's previous report in letters to its clients in which all problems concerning alleged child labor are denied.

Finnwatch believes that the factories have not knowingly employed young workers in breach of the law and that the problem is difficult to tackle. However, denying the unfortunate state of affairs will not help in solving challenges.

If young workers are encountered in factories, they should not be dismissed but instead the factory should ensure that their health is adequately protected and that they can make a living without having to do unreasonably long working hours and overtime work. However, workers are unwilling to report they are minors for fear of losing their job or the overtime work that is necessary for them and their family to survive. The situation is made even more difficult by the fact that the workers do not seem to have adequate channels for bringing up their concerns and grievances. This problem will be dealt in more detail in the following chapter.

5.6 WORKERS' VOICE IS NOT BEING HEARD OR EFFORTS ARE TAKEN TO ACTIVELY STIFLE IT

There is no trade union operating in the two TUM and Unicord tuna factories. This is not exceptional as unionisation rates in Thailand are very low. In the food industry trade unions are extremely rare.

Finnwatch discussed the issue of occupational association with both of the factories in meetings held in early November 2013. Management expressed views that no occupational association in Thailand was needed for cultural reasons – employers and workers are used to solving problems together without unnecessary confrontation. Further

employers claimed to do the best for their workers and be treating them "like their children" because they need them.

The need for unionisation in Finnwatch's view differs radically from that of the factory management. Finnwatch's view on the necessity of trade unions was confirmed in the worker interviews.

Since the end of 2012, Unicord has been denying its workers their statutory break before starting an overtime shift (This practice has been described in detail in chapter 5.3). The workers of Unicord 2 had complained about this to their supervisor but he had told them that there was nothing he could do and advised the workers to turn to the factory management. Workers in one of factory's sections had gathered courage and then went to speak with the management in order to demand that their rights be respected. As a result, the factory did change the practice to conform the law. However, shortly thereafter the section of those workers who had complained about the issue was split up and the workers were sent to other tasks in different parts of the factory. After this, the illegal practice continued.

A box for feedback is in place in both of the factories, enabling workers to express their concerns without revealing their identity. In TUM, the key to the feedback boxes was only given to the management of the factory in order to guarantee that the workers could also give feedback concerning their nearest supervisors.

Boxes for feedback are a good start but far removed from collective bargaining. For example, in Unicord the workers had reported the unlawful practice regarding overtime breaks using feedback boxes but their complaints were continuously ignored.

In Finnwatch's opinion, it is clear that the interests of the factory's management and those of the workers diverge and there is an imbalance in the power-relations between them. In Unicord's case, a great proportion of the workers are afraid of raising concerns to their supervisors attention and even unofficial attempts to organise had been hindered.

²² Unicord statement available at: http://finnwatch.org/images/Unicord_Plc.pdf

Tuna factory workers receive only legal minimum wage which is not a living wage. In order to make ends meet they live in small rooms that are shared with several people. Workers work 2–3 hours overtime every day for six days per week.



TUM promised to engage one worker to represent the migrant workers in the factory's safety committee from the start of 2014. Finnwatch is of the opinion that half of the committee's members representing employees should be migrant workers because half of those working in the production are migrant workers, according to the factory.

5.7 PROBLEMS ENCOUNTERED IN THE PRACTICES OF A LABOUR LEASING COMPANY USED BY UNICORD

In worker interviews, some new problems were encountered that had remained unobserved in the interviews conducted in 2012.

Finnwatch found out that some of Unicord's workers were not directly hired by the factory but instead worked as subcontract workers. These workers had in many ways worse conditions of employment than workers hired directly by Unicord. From the subcontracted workers' salaries illegal deductions were made and these workers were not provided salary slips nor written employment contracts. Moreover, these subcontracted workers were not allowed to have their statutory six days of annual leave but provided only five days per year.

Unicord reacted to these findings by ending its cooperation with the labour subcontracting companies and hiring the workers on its payroll. After this change, Unicord now has 509 more workers on its pay roll.

5.8 WORKERS ARE NOT AWARE OF THEIR RIGHTS

Educating workers on their rights is highly important in a situation where there is no trade union operating in the factory and when migrant workers in a vulnerable position are being hired.

TUM started giving training to workers and every worker received one hour instruction before starting their work at the factory. Since the publication of Finnwatch's report in January 2013, the company had also updated its policy on social responsibility. The policy had been translated into Burmese language and according to the factory these documents were placed on a bulletin board in the factory for everyone to see.

The interviewed workers at Unicord 2 factory claimed that they did not receive any education on their rights or work responsibilities. When recruited, the workers were only

briefly told what their salary, extra payments and working time would be. Acquainting new workers with their tasks has been left to workers who have been working longer in the factory.

Workers at Unicord 1 reported that on their first day at work they were expected to fill out a questionnaire with their factory supervisors and interpreters. The questionnaire contains "right or wrong" questions regarding the factory's practices. The workers had to answer the questions correctly in order to secure the job. If they were unable to guess correctly the interpreter or supervisor would provide them the right answer.

Finnwatch sees no benefit in this kind of "training" for the workers nor the factory itself.

5.9 WORKERS ARE STILL BEING HARASSED BY THEIR SUPERVISORS

Workers still reported their supervisors were behaving inappropriately. Supervisors behave rudely towards Burmese workers and whenever they made mistakes they were shouted at. Some of the supervisors used their power towards the workers by restricting possibilities to do overtime work and withholding bonuses. According to Unicord, the factory will organise extra training for supervisors. Unicord stressed that overtime and bonuses are part of the company policy and not in the hands of individual supervisors.

Workers at Unicord reported that their supervisors controlled male workers' toilet visits with a mirror that has been attached to a stick. Workers were insulted by this. According to the company, monitoring had been in place to assure security and ensure no drug usage in toilets. Unicord told Finnwatch that it will abolish this practice.

Supervisors at TUM made remarks at workers whom they considered were spending too much time in the toilet. Workers also reported a supervisor who was drunk and whose behaviour was unpredictable whilst criticising TUM's practice before the start of

a new shift to scold those workers who were left behind their production goals. According to TUM, the factory has taken necessary steps by leveling up the awareness of all supervisors through formal training.

5.10 IMPROVEMENTS TO WORKER'S WELL-BEING IN THE FACTORY

TUM had started a programme called Happy 8 workplace²³ that aims to improve workers' wellbeing. Through the programme, for example, parties and sport events have been arranged for workers. In addition, a workers' fund had been set up with the aim of teaching the workers how to save money and to offer low-rent loans. In the premises meant for breaks, an area for karaoke had been set up which the workers could use during their breaks. Some of the interviewed workers at TUM mentioned the free time activities offered by the factory, clearly content with them.

Unicord had taken part in different charity activities like organised voluntary cleaning work in the neighbourhood and donated equipment to schools and victims of floods in Thailand.

Extra curricular activities and charity projects can be very meaningful for factory workers. However Finnwatch sees that priority should be in improving workers' basic working conditions and making sure that workers basic rights are respected.

²³ A programme developed in Thailand aiming at increasing work satisfaction, more information on the programme on <http://www.happy8workplace.com/>

6. Natural Fruit started legal proceedings against Finnwatch researcher Andy Hall

The Finnwatch report *Cheap Comes With A High Price* was published in Finland and Thailand on 21st of January, 2013. In Thailand, a Bangkok press dissemination event to release the findings was organised at the Foreign Correspondents Club of Thailand (FCCT), hosted by migrant worker expert Andy Hall, who had been in charge of Finnwatch report's worker interviews in Thailand. Finnwatch was present at the event via internet skype link.

Taking part in this press dissemination event had a high price for Andy. On 22nd February 2013, Finnwatch received information from a British journalist that Natural Fruit had started legal actions against Andy as they disputed the findings of the research. Charges brought by Natural Fruit were related to defamation and crimes under Thailand's Computer Crimes Act. Unlike Finland and many other European countries, Thailand has a law that allows legal entities such as companies to sue individuals for criminal defamation. Another peculiar aspect of the Thai law is the Computer Crimes Act, which has received a lot of criticism for limiting freedom of speech in Thailand. Based on the Computer Crimes Act provisions, websites containing political criticism have been shut down and individual people have been charged for sharing unwanted political opinions and materials on the internet.²⁴

There have been several court hearings in Thai civil and criminal justice courts regarding the case of Andy Hall vs. Natural Fruit. Andy hasn't been present in these hearing as when writing this report, he had still not received the summons as legally required. If Andy is found guilty of the charges against him, he will face jail and fines worth millions of euros.

More recently in September 2013, Andy was also notified by the Ambassador to the British Embassy in Bangkok that Natural Fruit in July

2013 filed additional criminal defamation charges at Bangna Police Station in Bangkok regarding an interview Andy gave on his case to Aljazeera in April 2013 in Yangon, Myanmar and that was subsequently broadcast in June. The British Embassy has refused to disclose the source of its information on these prosecutions and has failed to reveal any information to Andy in line with British Freedom of Information policy.

On 27th September, Andy Hall appeared at Bangna police station with union leaders and a lawyer as witnesses, as required by Thai law, only to find police trying to get him to sign a confession to all charges. Andy left the police station without signing. Following this, Andy and his legal research team have filed serious complaints against this malpractice with the Royal Thai Police Force, Thailand's National Human Rights Commission (NHRC), Ministries of Foreign Affairs and Justice and the British Embassy in Bangkok and Foreign and Commonwealth Office in London. The police recently responded to these complaints stating that Andy Hall should come again to answer the charges and, once a certified translator was arranged, they would arrange a date. The attempted confession and lack of jurisdiction was not mentioned in the official reply by the police.

Legal action against Andy Hall have raised serious criticism all over the world. International trade unions have stated their support for Andy and demanded that Natural Fruit's labour conditions should be investigated and that all charges against him dropped²⁵. In its statement, Human Rights Watch has encouraged Thailand to abolish legislation that hinders freedom of speech and to make sure that human rights defenders such as

24 See for example Asian Human Rights Commission, <http://www.humanrights.asia/campaigns/chiranuch-prachatai>

25 Andy Hall has been the subject of supportive statements for example issued by IUF, BWI, UNI Global Union and ITUC.



Finnwatch and The Trade Union Solidarity Centre of Finland SASK invited Andy Hall to the World Village Festival in Helsinki in May 2013.

Andy can continue their work in Thailand²⁶. Several other non-governmental organisation such as Front Line Defenders²⁷ and Burma Campaign UK²⁸ have expressed their support for Andy also.

In addition to wide support from civil society organisations, the legal case against Andy Hall has also raised interest in the European Parliament. Finnish members of the European Parliament Sari Essayah²⁹, Satu Hassi³⁰ and Mitro Repo³¹ have raised the case and issues relating to freedom of speech in Thailand in

26 Human Rights Watch, Defamation Charges Chill Labour Rights Inquiries, <http://www.hrw.org/news/2013/04/09/thailand-defamation-charges-chill-labor-rights-inquiries> (page visited on 10.1.2014)

27 Front Line Defenders statements on Andy Hall's case have been compiled on page <http://www.frontlinedefenders.org/AndyHall> (page visited on 14.1.2014)

28 Burma Campaign UK statement on Andy Hall's legal case <http://www.burmacampaign.org.uk/index.php/news-and-reports/burma-briefing/title/drop-the-charges-against-andy-hall> (page visited on 14.1.2014)

29 Parliamentary questions, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bWQ%2bP-2013-003809%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>

30 Parliamentary questions, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bWQ%2bE-2013-003535%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>

31 Parliamentary questions, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2013-000618+0+DOC+XML+V0//EN>

their written questions to the European Commission. Also David Martin, as lead legislator for the Socialist and Democrat Group in the European Parliament, called for a strong commitment from Thailand to labour rights and migrant rights before a trade agreement is approved with the EU and asked members of the Thai Parliament to look into Andy's case³².

Maybe the most authoritative support for Andy Hall has come from the Office of the United Nations High Commissioner for Human Rights (OHCHR). OHCHR sent a letter to Thai government on April 2013 asking Thailand to explain what measures had been taken to ensure that human rights defenders in Thailand, in particular those working to protect the rights of migrant workers, are able to carry out their peaceful and legitimate activities without fear of judicial harassment or other restrictions. The letter also asked clarification on how labour conditions in Natural Fruit had been investigated by authorities. The letter was signed by five Special Rapporteurs on Human Rights.³³ Thailand has given only a partial response to the letter³⁴.

32 David Martin, Andy Hall – Labour Rights Defender Facing Imprisonment in Thailand, available at: <http://www.youtube.com/watch?v=FhtA5lWP2Yo>

33 OHCHR, available at: https://spdb.ohchr.org/hrdb/24th/public_-_AL_Thailand_26.04.13_%284.2013%29.pdf

34 Thailand, available at: https://spdb.ohchr.org/hrdb/23rd/Thailand_03.05.13_%284.2013%29.pdf

7. Follow up research: Natural Fruit

Finnwatch conducted field research also in Southern Thailand's Prachuap Khiri Khan province where eight workers from Natural Fruit were interviewed. In order to maintain high ethical standards and neutrality for the research, Andy Hall, who has been legally sued by Natural Fruit, didn't take part in conducting the interviews. This decision was made despite the fact that Finnwatch considers Natural Fruit's legal actions towards Andy completely unjustified.

For safety reasons Finnwatch will not reveal identities of the local researchers or workers who have been interviewed for this research.

Finnwatch asked Natural Fruit to comment the findings of the research. Natural Fruit replied very shortly stating that it would like to confirm that Natural Fruit's operations are accordance with Thai labor laws and that the company treats all employees with full respect to the laws and regulations. The company also stated that it has a pending judicial process and it is therefore not able to provide information that could contempt court authority.

Worker interviews show that problems in Natural Fruit's factory, already reported in January 2013, still continue.

7.1 WORKERS STILL RECEIVE UNLAWFULLY LOW WAGES

According to the interviewed workers, Natural Fruit seems to pay legal minimum wages to its workers. However, the factory deducts from the salary of all workers 30 baht for daily transportation cost whether they use the transportation service or not. It seems therefore that the actual daily salary of migrant workers at Natural Fruit is generally only 270 baht.³⁵ Salaries are paid to workers in cash and they don't receive any salary slips.

According to the interviewed workers, the factory doesn't give them any annual leave also. This is against Thai law. Workers don't have any paid vacation and they work also on national holidays. Sometimes work is also conducted on Sundays. The factory doesn't compensate Sunday work according to the law at twice the daily wage amount.

The workers work 2–3 hours overtime per day. Before overtime work starts, workers receive only 10 minutes break. According to Thai law, workers should be receiving 20 minute break before overtime of 2 or more hours.

According to the interviewed workers, they must buy all work equipment themselves.

Natural Fruit factory closes down every year from around the end of July to mid September. When the factory is closed, the workers don't receive any pay. According to Thai law, the workers should be receiving at least 75% of their normal salary during this time. According to the interviewed workers, temporary production stops are also common. When stops occur the factory sends workers home and doesn't pay them a full day's salary.³⁶ This practise is against Thai labour laws.

According to the workers, the factory has opened a shop which is situated outside the factory hall. The workers are allowed to buy products only from this particular shop which is owned by Natural Fruit company. Finnwatch wasn't aware of the shop during previous field research at the end of 2012. However the shop is also mentioned in Thai labour authorities report. Report states that workers purchases from the shop had been directly deducted from their salaries (see page 27).

Workers live in shabby houses in the factory area. They pay 400 baht per person for a small room which is shared by several people.

³⁵ Deduction of the transportation costs is also reported in the Thai official inspection report on Natural Fruit (for more information, see page 27)

³⁶ Salary deductions for the work equipment and unlawfully limiting daily salaries are also reported in the Thai official inspection report on Natural Fruit (for more information, see page 27)

7.2 SICK LEAVE IS NOT COMPENSATED, PROBLEMS IN WORKPLACE HEALTH AND SAFETY

According to interviewed workers, Natural Fruit doesn't give workers paid sick leave. If a worker gets ill during a work day they need to ask permission to leave from a supervisor. If a worker leaves the factory without permission, they lose a whole day's salary. Supervisors often reportedly withheld such permission. When accidents happen in the factory, Natural Fruit doesn't pay for hospital costs.

Interviewed workers reported a case where a very sick worker didn't get permission to leave the production line. The worker lay down on the factory floor and factory guards physically assaulted him. When other workers tried to stop the abuse they were shouted at.

The factory still limits toilet visits and workers are allowed only one toilet break during a working day. If a worker returns late from their break, a supervisor will deduct half an hour's salary. Workers also need separate access cards for toilet visits.³⁷

According to the interviewed workers, there are 16–17 year-old children working in the factory. When auditors visit the factory children are taken away for at least a day. The workers have been instructed not to talk to strangers, especially NGOs and foreigners.

³⁷ Limited toilet visits are also reported in the Thai officials' inspection report on Natural Fruit (for more information, see below). According to the report, the factory provides workers three toilet breaks during a work day.

Several reports have been published regarding Natural Fruit's poor working conditions

Including this report, Finnwatch has published two field studies on working conditions at Natural Fruit. But these are not the only reports concerning this factory. During the time of publication of the first Finnwatch report in January 2013, Finnish weekly magazine *Apu* published its independent coverage containing interviews with workers that had managed to flee from the Natural Fruit factory³⁸. In July 2013, Al Jazeera published interviews with another factory worker that revealed the factory was paying illegally low wages and cheating on factory audits.³⁹

In addition to NGO and media reports, also Thai labour officials have carried out their own inspections at the factory. According to labour officials' reports, the factory has, amongst other things, recruited undocumented workers, charged high fees for workers' passports, restricted workers' toilet visits and made unclear deductions from salaries.

Finnwatch received the Thai labour officials' report via the Thai Embassy in Finland during Spring 2013 and, together with the Finnish League for Human Rights, asked for additional information regarding the investigation's methodology and findings.⁴⁰ At the time of writing this report, no additional information on the inspection report has been received. Finnwatch has criticised the report because many of the problems reported in the Finnwatch worker interviews have not been investigated in the inspection report. For example, officials have ignored unlawfully low wages that were paid in the year 2012. It was also unclear whether the factory has been informed about the inspection beforehand and if the six workers interviewed in the inspection report had a chance to answer the questions anonymously.

³⁸ Article available in Finnish: <http://www.apu.fi/artikkeli/panttivankina-ananasmaassa>

³⁹ Al Jazeera, Migrants Work in Poor Conditions in Thailand, available at: http://www.dailymotion.com/video/x116ltx_migrants-work-in-poor-conditions-in-thailand_news

⁴⁰ Thai labour officials' report as well as Finnwatch and FLHR's response is available at: <http://www.finnwatch.org/uutiset/110-natural-fruit-s-harassment-of-finnwatch-researcher-drags-on-illegalities-at-thai-factory-remain-unsolved>

7.3 WORK PERMITS ARE STILL CONFISCATED, WORKERS ARE NOT ALLOWED TO CHANGE EMPLOYER

Natural Fruit has now given passports back to its workers but still some of the interviewed workers didn't have their work permits as the factory had confiscated them. There is heavy surveillance on workers. The factory has security cameras and the workers need a separate access card for getting in to their living area.

One of the interviewed workers told the researchers that he would like to work in another factory but Natural Fruit doesn't give him permission to change employer. According to Thai law, migrant workers need a separate document for changing their job. According to the interviewed workers, Natural Fruit doesn't provide such documents and also threatens workers with arrest by police if they insist to change employer without permission.

8. Field research: Vita Food Factory suspected of serious human rights violations

SOK, Kesko and Tuko Logistics acted very openly and provided Finnwatch information about their suppliers in Thailand. According to these companies, their private label pineapple juice is manufactured by using pineapple concentrate from four different Thai factories. These factories are Tipco Foods Publics Company Limited, Vita Food Factory, Thai Pineapple Canning Industry Co. Ltd and Siam Agro-Food Industry Public Co. Ltd. (Saico)⁴¹. Tuko Logistics also clarified that pineapple concentrate from Vita Food Factory has been used as a mixture that included pineapple concentrate from Siam Agro-Food Industry and Vita Food Factory.

One of the suppliers of Finnish supermarket chains SOK, Kesko and Tuko Logistics, the Vita Food Factory is situated in Kanchanaburi province, approximately 100 kilometres from Bangkok, the capital of Thailand. The factory produces different canned fruit and vegetable products as well as juice concentrate. Its product sortiment includes mango, maze, bamboo and pineapple.

According to the factory website, Vita has over 3 000 workers⁴². According to the interviewed workers, there are however at least 9 000 workers at the factory. Vita Food Factory is actually reported to consist of three factories situated in the same area.

Vita Food Factory has been under pressure since 2012. In June 2012, the problems at the factory were also reported by Al Jazeera. According to Al Jazeera's news story, the biggest US retailer Walmart had stopped buying from Vita Food Factory already in 2011 when the factory failed to correct labour issues detected. According to Al Jazeera, Vita was still sending goods to Walmart in March 2012 however.⁴³ In Autumn 2012, the State Enterprise Workers' Relations Confederation of Thailand and the Thai Labour Solidarity Committee urged authorities to intervene to investigate and remedy the factory's multiple labour rights violations.⁴⁴ There have been several publicly reported incidents of indus-

41 Addresses and the auditing situation of the factories have been presented in chapter 3.2.

42 Vita Food Factory, <http://www.vitafood.co.th/company.htm> (page visited 14.1.2014)

43 Al Jazeera, Migrant workers exploited in Thailand, 23.6.2012

44 Stop Violations against Myanmar Migrant Workers at Vita Food Factory (1989) Ltd, in Thailand <http://www.prachatai.com/english/node/3320>



"We came to tell about our working conditions in secret. If our boss would find out that we talk to journalist, we would be in serious trouble."



trial unrest by workers unhappy at their conditions at Vita Food.

In May 2012 Office of the United Nations High Commissioner for Human Rights sent a letter to Thailand expressing its concern on reported issues in Vita Food Factory. According to OHCHR: "The migrant workers reportedly enter Thailand for the purpose of employment with the help of brokers, only to realize that their job in Thailand is different from what they were promised. The migrants are often forced to work under debt bondage conditions as they owe their brokers fees for finding employment and for a variety of expenses, such as costs of transportation to Thailand."⁴⁵

In November 2013, Kesko and SOK informed Finnwatch that Vita Food Factory was one of their suppliers. Also Tuko Logistics confirmed using Vita Food Factory pineapple concentrate for their private label juice.

According to information received from Kesko, Vita food Factory has a Sedex-audit and improvement plan in place. According to information provided by VIP-Juicemaker, the audit is conducted by Bureau Veritas and was conducted on 28th to 29th of May 2012. According to VIP-Juicemaker, the audit found only one minor non-compliance that related to a missing waste management contract.

Finnwatch considers this auditing result very peculiar as during summer 2012 both Thai media and Al Jazeera, as well as UN OHCHR, had raised serious concerns on labour conditions in Vita Food Factory.

In the new field research that was done for this Finnwatch report, very serious labour rights violations and a number of other problems were encountered. These findings have been disseminated as explained in detail in the next chapters.

Field research was conducted in November–December 2013 by interviewing workers from different sections of the factory. The safety of the workers is a major issue in Vita (see chapter 8.4) and thus it was possible to obtain only seven worker interviews. In addition and for fuller information, Finnwatch interviewed local activists and experts. Also cooperation was made with Finnish photographer Meeri Koutaniemi and journalist Lea Pakkanen whose own fieldtrip material to Vita has been used to complement information from the worker interviews. Although the number of interviewed workers is relatively small, findings were confirmed by other information received during the field research. Findings are also in line with previous reports from the factory.

⁴⁵ OHCHR, [https://spdb.ohchr.org/hrdb/21st/AL_Thailand_14.05.12_\(2.2012\).pdf](https://spdb.ohchr.org/hrdb/21st/AL_Thailand_14.05.12_(2.2012).pdf)

To guarantee the safety of the workers, activists and local researchers, names and identifiable pictures will not be published in the report.

According to the Finnwatch code of conduct, Vita Food Factory has been given the possibility to comment on the findings. Finnwatch sent the findings of the report via email to Vita Food Factory several times but received no response.

As the findings of the field research were very serious, Finnwatch also sent notification of findings to the Finnish, EU and Thai authorities before compiling this report.

8.1 OVERTIME WORK AND HOLIDAYS ARE NOT COMPENSATED ACCORDING TO THE LAW

All interviewed workers received the Thai minimum wage of 300 baht per day. One of the interviewed workers, with more demanding work, received 320 baht a day. According to the workers, the factory also has undocumented workers who received only 250 baht a day. Workers are expected to buy all work related equipment themselves and they need to pay for knives, aprons, hats, shirts, shoes, masks and gloves.

A workers' working day is nine hours long and in some departments they regularly work 3 hours overtime per day. Overtime work is not paid according to the law. The workers receive only 37 baht per hour when they should be receiving 56 baht per hour.

Workers reported significant problems in payment of the wages. Vita Factory doesn't make the payment direct to workers and instead different labour brokers are in charge of the payment to workers and make unlawful deductions from salaries not allowed under Thai law. Salaries are often late and the workers need to queue a very long time in front of brokers offices, sometimes until midnight. Wages are paid in cash and the workers receive no pay slips. According to the interviewed workers, there are often mistakes and they receive less money than promised. However, the workers have no

Vita Food Factory operates under name of Vanda Frozen Group?

According to the interviewed workers, Vita Food Factory operates also under the name of Vanda Frozen Group, a company that is used to recruit workers through formal channels from Myanmar. It is likely that Vanda Frozen Group also markets and exports Vita Food Factory products. In addition Vanda Frozen Group's head quarters is in the same address with Vita Food Factory's office.

The two companies have separate websites and their head quarters are situated in different provinces in Thailand. However both of the factories are situated on the same road in Kanchanaburi and, according to Thailand's Board of Investment (BOI), have the same phone number. Both of the companies are registered with BOI which then allows them to receive several incentives such as tax benefits.

It is unclear why the company operates ostensibly under two different names. It is possible that Vita Food Factory is trying to avoid its bad reputation by operating under the name of another company.

“Our overtime compensation is 37 baht per hour. We are not allowed to say no to overtime work. We know that according to Thai law we should receive 56 baht per hour.”

possibility to complain or get their voice heard as they have no documents also.

The factory doesn't provide any annual leave to workers. According to Thai law a worker who has been working in the same factory for over 12 months is entitled to six days annual leave. Vita Food Factory also demands workers work on national holidays but doesn't compensate the workers with two times the daily salary as they should receive for working such days. The factory workers don't have any paid leave during the whole year.

According to interviewed workers, the factory doesn't provide sick leave pay and sick leave is also restricted. If the supervisor doesn't give permission, a sick worker is not allowed to leave the factory. If the worker is on sick leave without permission, the worker will be fired. According to Finnwatch, this leads to a very harmful situation where sick workers are coming to work.

According to the interviewed workers, there have also been accidents in the factory. When accidents occur, the factory takes workers to hospital but doesn't cover the costs of the treatment.

8.2 WORK PERMITS AND PASSPORTS CONFISCATED, WORKERS PAY HIGH PRICES FOR DOCUMENTATION

All interviewed workers had passports and work permits. According to the interviewed workers, the factory hires also undocumented workers as well as workers whose work permits have been forged by the brokers and workers who have passports but work permits meant for working at other workplaces and with other employers, not Vita.

All interviewed workers have entered Thailand with the help of brokers, smugglers or traffickers. They had to pay very high price for passports (the nationality verification or NV process) and work permit or for processing documents for entering into Thailand from Myanmar through a government MoU-process. Normal fees for a visa is 500

baht, for a passport 550 baht and for a work permit 1 900 baht (2 year permit). Interviewed workers had paid 5 500–12 000 baht (around 120–270 euros) for a passport and 2 500–14 000 baht (around 60–310 euros) for a work permit. In addition, many interviewed workers had paid an additional fee to a broker which was between 260–290 euros. The daily minimum wage in Thailand is 300 baht, less than 7 euros. The fees paid by the workers are thus very high compared to their income. In addition to non-recurring fees and documentation costs, the workers have to pay a regular broker fee of 300–600 baht per month. According to local activists, brokers use these fees for bribing the local police to stay away from the factory area.

All interviewed workers reported their work permits and work permit receipts were confiscated. Also passports were confiscated from some of the workers. According to the workers, their documents had been confiscated because of unpaid broker and documentation fees.

Interviewed workers thought that they had signed a MoU-agreement of which Finnwatch has a copy. Workers agreement is however a forgery, possibly written by brokers. In the contract Burmese migrant workers were promised a higher salary, free accommodation and uniforms at Vita and they feel they were tricked. Some of the workers also reported paying documentation fees that were significantly higher than the ones agreed in Myanmar before they left to Thailand.

In Thailand, migrant workers need a separate permission for changing an employer. According to interviewed workers, Vita Food Factory charges 3 000 baht for issuing this permission document. This accounts for ten days salary. So even if a worker has the possibility to pay off their debt from a broker as well as documentation fees, the worker still might not be able to afford to change the employer and leave Vita Foods.

Confiscation of personal documents, unfair and undocumented loans and restriction of movement indicates human trafficking, debt bondage and forced labour.



PHOTO: MEERI KOUTANJEM

"My daily salary is 300 baht and I have to pay for all working equipments. This cap costs 150 baht."

8.3 WORKERS LIVE IN POOR CONDITIONS

The workers at the Vita Food Factory live in shabby houses that are rented by brokers. Every month the workers pay 1 500 baht for the rooms plus 300–500 baht for water and electricity.

Living quarters are in a very poor condition. Wage management is insufficient and garbage and waste water occupy the area. During rainy season the roads and yards get muddy. Living in the area is unhygienic and unpleasant.

Houses are also used to control the workers. According to an interviewed activist, workers are sometimes locked inside rooms in order to prevent them from fleeing the factory before they have paid their debts to brokers.

"I met the broker in Burma. He lured me to work in Thailand and I signed a contract. Everything seemed to be ok. When I got to Thailand I was placed in a different factory than was agreed to in the contract. I owe 12 000 baht to the broker."

Thai pineapple industry claims to be responsible

After Finnwatch's report *Cheap Has A High Price* was published in January 2013, the Thai Food Processors' Association (TFPA) published a statement on industry responsibility. In the statement, TFPA recognised the importance of Thai and migrant workers in building the successful food industry in Thailand. TFPA also announced it was adopting policy on social responsibility, namely:

1. The Association and its members shall have the policy to comply with the Thai Labor Protection Law of BE 2541.
2. We shall employ workers who are legally registered in accordance with the law and shall treat workers ethically according to the law.
3. We shall not employ child labour and forced labor, or to be engaged in any activities that may be deemed as human trafficking in any step of the production process.
4. We shall promote and support the compliance with the Thai Labor Law throughout the supply chain.

Vita Food Factory is a member of TFPA and one of its directors is also director of the TFPA's Pineapple Group.

How to recognize human trafficking and forced labour?

The International Labour Organisation (ILO) has created several indicators on forced labour and human trafficking.⁴⁶ According to the Finnwatch findings, many of the indicators can be found in Vita Food Factory. These indicators and findings are presented in the following table.

ILO indicator	Findings from Vita Food Factory
Deceptive recruitment	During the recruitment workers have been promised higher salaries, free accommodation and official documentation (passports, work permit and visa) at a lower price. Some of the workers have been brought to Vita Food Factory against their own will. Some workers thought they were going to work inside Myanmar but instead were transported to Thailand.
Coercive recruitment	Some of the workers had been forced to Thailand by threatening them with violence.
Coercion at destination	Workers are forced to work in the factory in order to pay their debts off. Workers are afraid of violence in the factory. Sick workers are not always allowed to leave their work shift.
Abuse or vulnerability at destination	Myanmar migrant workers don't know Thai language and their rights. They often don't have friends or family in their working area. Undocumented workers are afraid of being arrested outside the factory area. According to workers, the factory operates in close cooperation with corrupted local police.
Physical and sexual violence or threat of violence	Factory brokers use violence to discipline the workers. Even dead bodies have been found in the factory area and according to the workers, cause of death is often unclear.
Restriction of movement	Confiscation of passports and work permits prevents workers from changing employer and leaving the country. Some of the workers are also locked inside their rooms. Workers who have tried to flee the factory have been physically beaten in the past.
Debt bondage	Workers paid very large amounts of money to brokers for their services and official documents. Workers had large debts to brokers and in addition brokers charge monthly fees which are allegedly used for bribery.
Withholding of wages	Brokers make unclear deductions from workers' salaries and the salaries are paid in cash without providing salary slips.
Confiscation of documents	Work permits have been confiscated from all interviewed workers. Some of the workers have been forced to hand over their passports as a surity for their debts.
Intimidating denunciation to the immigration authorities	Undocumented smuggled workers are afraid of getting arrested outside the factory. According to the workers, the factory operates in close cooperation with corrupted local police.
Isolation, confinement or surveillance	Workers live in houses that have been chosen by their brokers. Workers are not allowed to change their employer. Workers who have tried to flee the factory have been beaten up in the past.
Exploitative and abusive working and living conditions	Overtime payment in the factory is unlawfully low and workers are sometimes forced to do overtime work. Workers cannot choose where they live and their living conditions are poor.
Excessive working days or hours	Sometimes overtime work in the factory is forced. Some of the interviewed workers worked also on Sundays.

⁴⁶ ILO indicators in the table have been gathered from the following sources: ILO Indicators of Forced Labour, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf; ILO Indicators of trafficking of adults for labour exploitation, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105884.pdf. When necessary, indicators have been combined. Regarding human trafficking the table includes only strong indicators.

8.4 MIGRANT WORKERS ARE DISCRIMINATED AND THREATENED, VIOLENCE HAS OCCURED IN THE FACTORY

The factory has a different policy for migrant and Thai workers. Migrant workers receive only 37 baht for overtime work when Thai workers receive their overtime compensation according to the Thai law (56 baht per hour). According to interviewed migrant workers, Thai workers do lighter work in the factory and they don't have to lift heavy loads by themselves. Only Thai workers receive yearly bonuses.

According to workers and interviewed activists, the factory brokers are known for threatening and beating workers. Even dead bodies have been found in the area and there is also documented evidence of ongoing beatings. Violence and the threat of violence is a way of suppressing possible worker protests.

“The factory doesn't follow any laws. Once our boss beat up my colleague with a stick and an iron pipe. We have no one to turn to. I would like to feel safe.”

8.5 OTHER PROBLEMS

Interviewed workers reported that they didn't get any training for their work in the factory. Training was provided by colleagues who had been working longer in the factory. This increases the risk for work related accidents in departments where workers are working with hot machinery, moving conveyor belts and heavy lifting. If workers are involved in mistakes that cause damage to the products, the value of the product is deducted from their salary.

According to interviewed workers, there are few toilets in the factory. In the department that is handling pineapple there are 2 000 workers but only 20 toilets. The factory provides workers only 15 minute breaks to use the toilet. If the worker is late even one minute beyond that time their supervisor will deduct half an hour salary from their wages.

According to interviewed workers, the factory gives workers training for audits. When auditors interview workers the workers are told to lie and tell the auditor that they receive legal overtime compensation and salaries. Workers who can speak Thai are given a recorder which they need to keep in their pocket during interviews. After the interview is over their supervisor will listen to what the worker had said.



Vita Food Factory storage.

When an auditor comes to the factory, undocumented workers need to stay at home and they are not allowed to work.

It seems clear that peculiar and unlawful policies of the factory can also have an effect on the quality. According to some of the workers the factory is not clean and the workers are told to change labels to products that have an expired best before date. Canned food is also produced in stock. When orders come workers clean rust from cans and print new labels to old cans with current manufacturing date.

The Japanese Ministry of Health conducted inspections in summer 2013 and found violations of the local food sanitation law. Both Vita Food Factory's and Vanda Frozen Group's products contained excessive bacteria. Vita Food Factory's pineapple juice concentrate, that is also imported to Finland, contained fecal coli bacteria.⁴⁷

Sedex – reliable information on responsibility?

Sedex is a business led organisation that provides an online database which allows members to store, share and report on information on corporate responsibility. By using the database, Sedex member organisations can get permission to view responsibility information of their suppliers. Sedex aims at providing efficient and cost effective ways of sharing responsibility information with multiple customers, helping cut down on unnecessary paperwork and saving companies time and money.

Sedex is not a standard setting body, code of conduct or certification. International campaigns on responsible textile industry by Clean Clothes Campaign stated Sedex to be as reliable as the information that has been uploaded to the system⁴⁸.

Sedex is not responsible for audits and it doesn't accredit auditors for using its SMETA-auditing tool⁴⁹. Sedex does not approve auditors or audit bodies and it doesn't verify or validate information on its database.⁵⁰

48 Clean Clothes Campaign, Cashing In, 2009, available at: http://www.evb.ch/cm_data/Cashing_In_EN-LR.pdf

49 SMETA – Sedex Members Ethical Trade Audit, more information at: <http://www.sedexglobal.com/ethical-audits/smeta/>

50 Sedex, <http://www.sedexglobal.com/ethical-audits/for-auditors/>; <http://www.sedexglobal.com/about-sedex/faqs/#b4> (page visited on 14.1.2014)

47 Japan Ministry of Health, Labour and Welfare, Recent Cases of Violation of the Food Sanitation Law that were Found on the Occasion of Import Notification, June 2013, available at <http://www.mhlw.go.jp/english/topics/importedfoods/13/xls/13-06a.xls>

9. Summary of the findings

Finnish retailers SOK, Kesko and Tuko Logistics seem to have reacted to the Finnwatch report *Cheap Comes With A High Price* that was published in January 2013. Retailers have been in close dialogue with their direct suppliers and added additional requirements for their suppliers on responsibility monitoring. VIP-Juicemaker has joined the Business Social Compliance Initiative and demanded different responsibility certificates from its suppliers.

Lidl however hasn't reacted to Finnwatch report in any way. Unlike other retailers, Lidl didn't give Finnwatch information about its suppliers in Thailand.

Although many of the Finnish supermarket retailers and VIP-Juicemaker have started to work towards adding responsibility in their supply chains, Finnwatch's new research findings are alarming, especially when it comes to pineapple. VIP-Juicemaker and its parent company Refresco stopped buying pineapple concentrate from Natural Fruit after learning of Finnwatch's findings that were published in January 2013. However, the human rights situation with the current supplier Vita Food Factory is, if possible, even more alarming than the situation in Natural Fruit. Based on Finnwatch findings and ILO's indicators on human trafficking and forced labour, Vita Food Factory is involved in serious human rights violations.

Labour conditions in the tuna companies had partly improved and the workers had, for instance, sometimes been given their personal documents back. Still some old problems persisted in the factories however and even new problems were found. Factories had active dialogue with Finnwatch and they promised to correct most of the problems identified.

It is clear that Finnwatch, other human rights organisations and different auditing

schemes cannot be present at factories at all times pointing out problems for those concerned. Pineapple and tuna industries as well as other exporting industries in Thailand have serious structural issues that need to be addressed in order to solve problems in their labour conditions. These structural issues include corruption, laws that prevent migrant workers from forming trade unions and overall low rates of unionised workers. Feedback boxes and worker committees are a good start for the industry but cannot fix the imbalance of power between workers and employers.

Finnwatch points out that this follow-up research studied exactly the same products (tuna and pineapple) that were studied on the *Cheap Comes With a High Price* report, published in January 2013. Although there has been serious effort to improve labour conditions with these two particular products, findings of the follow-up report are still alarming. It seems that Finnish supermarket chains and other Finnish companies have a lot of work to do in order to make sure that human rights are respected throughout their supply chains in all products that include ingredients from risk countries.

Corporate social responsibility is the responsibility of companies but also responsibility of States. States should sustain company's responsibility work by demanding compulsory human rights due diligence from these companies as well as making sure that victims of human rights violations have access to judicial remedies. The human rights situation in Thailand's export industries should be addressed also in free trade negotiations between the European Union and Thailand.

More detailed recommendations for companies, trade unions and State of Finland have been presented in the following chapter.

10. Recommendations

RECOMMENDATIONS TO THE COMPANIES

- Business relations with Vita Food Factory should not be terminated before all possible means have been used to solve factory's working conditions. Finnish retailers should take actively part in solving the problems and engage with Thai Food Processing Association as well as Thai authorities. All actions, progress and possible set backs should be reported openly.
- TFPA should terminate memberships of all member companies that are not committed in TFPA responsibility standards as well as international standards and don't act according to Thai law.
- Companies should carefully consider before accepting Sedex SMETA audits as a certificate for supplier responsibility. SOK has publicly stated that in the future they use only pineapple concentrate that comes from BSCI-audited or factories that have equivalent audits in place. Sedex SMETA audit is not equivalent to BSCI audit.
- Finnish companies should continue systematic work to ensure that human rights are respected in all supply chains. Companies should study their supply chains and prioritize measures on products that have significant amount of ingredients from risk countries. Companies need to reserve enough resources for this work. Regarding supply chain mapping and ensuring credible monitoring companies should strive to cooperate also on BSCI level or global level, whenever possible.
- Human rights and possibilities to monitor supply chains should be taken into account already when designing new products. It is clear that pineapple concentrate coming via several traders and from four different factories is difficult to monitor. Supply chains should be made transparent and shorter. Companies should also commit in long term business relations with suppliers instead of constantly tendering them for cheapest price.
- Human rights, labour rights and corporate responsibility issues should have same priority with quality and price. Vita Food Factory case can be seen as reference to a case where company not interested in labour rights and labour laws is also not committed in good quality and safety of the consumer.



PHOTO: MEERI KOUTANEN



Organizations for migrant workers are rare in Thailand. Migrant Workers Rights Network MWRN provides information to migrant workers about their rights, maintains library and childrens' school as well as organizes computer and language courses.

RECOMMENDATIONS TO THE TRADE UNIONS

- Migrant workers face systematic discrimination and different abuse and it is very difficult for them to get their collective voice heard. Trade unionism in Thailand should be strengthened.
- Thai law prevents migrant workers from forming own trade unions. In addition to trying to change these laws, international and Thai trade unions should support migrant workers grass root movements and associations.

RECOMMENDATIONS TO FINNISH CITIZENS

- Consumers should demand more sustainable products and focus on responsibility instead of the price.
- Finnish citizens should demand more ambitious csr-policies from the Finnish government. According to the Finnish Government Programme (2011–2014) Finnish companies should be forerunners in corporate social responsibility.

RECOMMENDATIONS TO THE AUTHORITIES

- Workers rights should be considered as an important factor or element of free trade negotiations with Thailand.
 - Thailand should adjust its legislation to be in accordance with ILO core conventions and also allow migrant workers to form unions.
 - Work against human trafficking should be more effective at the border between Thailand and Myanmar.
 - Traders and managers of corporations who are guilty of human rights violations should be brought to justice.
 - It is important to end a culture of impunity and tackle corruption in Thailand.
 - Human rights defenders should be protected and freedom of speech should be guaranteed by changing the legislation about defamation and computer crime.
- An implementation plan regarding UN Guiding Principles of Business and Human Rights is being prepared in Finland year 2014. The process should be ambitious and in accordance with the corporate responsibility goals presented in the Finnish government programme (2011–2014).



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