

Report on complaint against FFI

FWF, August 2007

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1. FWF member and contact person

Mexx (member of FWF since November 2006), Contact persons: Orhan Çakaloz and Daryl Brown (Liz CLaiborn, parent company of Mexx)

2. Accused party

Two closely held private limited companies - Fibre & Fabrics International (FFI) registered with the Registrar of Companies, Bangalore, and Jeans Knit Pvt. Ltd. (JKPL), which is a 100% undertaking by FFI. The garment manufacturing process is divided among five units. Out of which three units are owned by FFI directly, and the other two units - are held by Jeans Knit Pvt. Ltd. Units held by Fibre & Fabrics International Pvt. Ltd. (FFI)

1. Registered Office and Washing unit – No. 21E – 1, IInd stage, Peenya Industrial Area, Bangalore – 560 058. No. of workers: About 1400 (excluding office staff)
 2. Unit I: Cutting and Embroidery Unit – No 34/A, IInd phase, Peenya Industrial Area, Bangalore – 560 058. (Also called JKPL – No. of workers: About 400).
 3. Unit II, Production Unit - No. 125, 5th main road, IInd stage, Yashvanthpur, Industrial Suburb, Bangalore – 560 022. No. of workers: About 1600.
- Units held by Jeans Knit Pvt. Ltd (JKPL)
4. Production unit – 26/A, IInd phase, Peenya Industrial Area, Bangalore – 560 058. No. of workers: About 1000 (40% are women workers)
 5. Finishing unit – 485/2, 13th cross, 4th Stage, Peenya Industrial Area, Bangalore – 560 058

In a first stage, complaints concerned especially the Washing Unit. But later, due to FFI's reactions (see below), a new issue arose that concerned FFI/JKPL as a whole. Hence we will speak of FFI in general when referring to the group.

3. Way the complaint has reached FWF

FWF only became involved by end 2006 due to Mexx, a buyer from FFI/JKPL becoming a FWF member. Mexx was already dealing with this complaint by that time.

A short reconstruction of the preceding events:

- Sept 12, 2005: worker interviews carried out by CIVIDEP, India
- Oct 2005: Cividep informs CCC about problems found at FFI/JKPL
- Nov 7 2005: Newspaper article in a Dutch paper refers to FFI.
- Early 2006: The Munnade (Women Garment Workers' Front) and the trade union GATWU

start to make organising attempts in FFI after (according to the Fact Finding Report) 'workers of the washing unit, made a representation asking for help, as they were facing harassment and abuse from the supervisors and the management of the unit.'

- April-May 2006: Fact Finding Report of Violation of the Rights of Workers at Washing Unit of Fibre & Fabrics International Pvt. Ltd.

Since GATWU and Munnade had already appealed to international labour groups for support before FWF got involved through Mexx' membership, the formal FWF complaints procedure did not have to be applied.

4. Use of other procedures by the complainant to solve the issue(s)

June 2006 (no date specified in report): Meeting of management with Fact Finding Committee.

9 June 2006: Meeting between FFI management and GATWU/NTUI- union. However both sides could not agree on the report of this meeting.

5. Summary of the complaint

Cited from the Union's report of the June 2006 meeting between FFI management and GATWU/NTUI union.

'The list of violations of workers' rights happening in units of FFI JKPL:

1. Harassment of workers, including in particular severe physical harassment of workers in the washing unit.
2. Arbitrary termination of the services of workers without following due legal process.
3. Absence of letter of employment to all employees.
4. No provision of leave with wages book to each employee.
5. No crèche, rest rooms and canteen facilities covering all employees.
6. No provision of identity cards to many of the employees.
7. Absence of proper safety measures, especially in the washing unit.
8. Non-payment of overtime wages for overtime work that the employees are made to do.'

Over 2006 different sources reported improvement on the issues that were raised by GATWU. But also a new issue arose by FFI's continuous resistance to a start a dialogue with GATWU and by FFI's appeal at a local court for Injunction. July 28 the court ruled an injunction against the following organisations from distributing info about FFI / JKPL: Garment and Textile Workers Union (GATWU), Women Garment Workers Front, Civil Initiative for Peace & Development (CIVIDEP), New Trade Union Initiative, Clean Clothes Campaign Task Force - Tamilnadu (note that CCC Task Force are not involved in this case). The temporary injunction was challenged by the union but upheld in February 2007, pending further hearings by the court.

6. Admissibility

The interventions by Mexx and brands and others based on GATWU's initial complaint had been going on for a year before FWF got involved by Mexx' membership of FWF. FWF and Mexx agreed in consultation with other parties involved to concentrate on the non-compliance with FWF labour standard no 4: 'Freedom of Association and Right to Collective Bargaining' and on FFI's overall obstruction of credible verification of code implementation by making it impossible for local stakeholders to discuss with brands and MSI's.

7. Accused party's response to FWF member and/or FWF

FFI reported, according to the union's report of the meeting of June 9 2006: 'that the allegations of violation of workers' rights were far from the truth. They stated that they follow all the statutory rules and abide by conditions imposed by the statutes.'

In the report of the FFC the management response is cited as 'According the FFC report: 'The Management Team informed that the company has Grievance Committee, Canteen Committee and a Sexual Harassment Complaints Committee and that all committees were functioning. They also showed (the FFC) the minute's book of grievance committee meetings and of the Canteen Committee meetings. Both were from February 2006 onwards. The MT insisted that no instances of physical or verbal abuse had been brought to the notice of the management and had any instances had been reported, proper action would certainly have been taken.'

At several moments in time Mexx and FWF, amongst others, have proposed to involve a mediator.

FFI made it clear that it would not take any step before CCC had taken all information about this case from their website.

FFI stated that there are no trade unions with members in their company.

But an independent source, that cannot be cited has verified that 85 persons had signed up to GATWU. These union members have all been thrown out.

8. Investigation

Mexx conducted a social audit in June 2006 by T-Group (FLA accredited), no recent issues were found, only issues that dated back from 1,5 years ago.

Mexx wanted to do another audit together with Ann Taylor by Verité. Because at that time FFI was going through the audits fro SA8000 certification; FFI informed them this was not convenient. Also Verite proposed to combine the audit with some worker training and interviews and this was declined by FFI.

To the extent of what was allowed y competition and anti-trust legislation, Mexx and FWF have been in contact with other brands and other MSI's, to try and remediate the situation.

Until June 2007 Mexx has also tried to contact local stakeholders and other involved parties but the opportunity for such meetings and the reporting thereof was severely limited by the injunction order.

Also FWF met wioth local stakeholders in May 2007 but the opportunity for such meetings and the reporting thereof was severely limited by the injunction order.

Mexx is looking for a mediator to bring FFI management and local organisations at the table.

Reports FWF received from others involved in this case also confirmed the findings from the worker interviews of the FFC that some situations had improved.

9. Follow up

Following the opening of international campaigning on this issue; the interventions of some brands; and work to prepare the company for SA8000 certification during the months of September, October and November 2006, most of the key issues were addressed and corrected by the company. Audits and other types of investigations by brands and MSIs

sustained both specific cases of the original complaints from early 2006 (found true) and improvements at the company (also found to be true).

However, the central issue of freedom of association in the company remained: 1. The only union that claimed some members in the company (GATWU) and the Munnade were banned from speaking to anyone about conditions in the FFI factories; 2. The previous opposition of the company to organising activity at its factories and the victimization and sacking during early 2006 of people who showed interest in the union and its front organisation has not been remediated by any statement or training in FoA by the company, so workers are still scared; 3. The fact of the injunction itself is tangible evidence of an unwillingness by FFI to engage in proper social dialogue with stakeholders.

To avoid duplication of efforts and to make sure to speak with one voice as much as possible, FWF has agreed with the involved brands and other multi stakeholder initiatives that FWF shall not enter into a direct communication with the company, but instead to jointly approach the issue.

The aims of all these parties involved have been to convince FFI/JKPL to start a mediated dialogue with GATWU and to stop legal actions that prevent local stakeholders from speaking out on the issue.

April 2007 Social Accountability International made a public statement:

'SA8000 certified organizations are required to engage and communicate with both internal and external stakeholders ("interested parties") regarding the company's policies and compliance with the SA8000 standard. (...) The existence of a court order or other impediments to discussion of the company's internal affairs by external stakeholders renders a full investigation impossible.

When the company obtains a legal injunction prohibiting discussion of the company's internal operations by stakeholders, it is not possible for the company to be in compliance with this element of the Standard.

The SAI Accreditation Committee has considered what response should be made in situations where compliance with the SA8000 standard cannot be verified by the full exercise of appropriate social consultations. It is SAI/SAAS's policy that, in cases where a legal or other impediment exists to consultation with external stakeholders regarding issues affecting the certified organisation, the continuation of certification is inappropriate.

Conclusion: It is the decision of the SAI Accreditation Committee that a suspension of certification is therefore appropriate in any case in which a candidate for certification or a certified organisation fails to meet these criteria, until such time as any legal proceedings or other impediments to a full investigation are terminated, and required stakeholder communications can be conducted. '

Final attempts by several parties in May 2007 -referring to a positive example of another garment factory in Bangalore that had been able to come to an agreement with GATWU-have met again by a refusal from the company.

On May 21 the Clean Clothes Campaign and the India Committee of the Netherlands received a summons from the VII Additional Chief Metropolitan Magistrate at Bangalore. People from CCC and ICN as well as two internet providers are expected to appear in person or by pleader before the Magistrate of VII ACMM on 25 June 2007.

At the last page of the summons it says:

'It is submitted that the accused are based in the Netherlands which is a signatory to the Convention on Cyber Crime and the Additional protocol to the said convention concerning the criminalisation of acts of a racist and xenophobic nature committed through computer

systems'

".. the accused are all guilty of criminal defamation and that the remarks made against the complainant company does not fall within the exceptions of Sec 499 and 500 of I.P.C., the accused are guilty of offence under Article 2, Article 3, Article 4 and Article 5 of the Additional Protocol to the Convention on Cybercrime for which Netherland is a party and it is needless to mention that the offence committed by the accused under Cybercrime is an Extraditable." These summons followed a legal notice sent on 16 May 2007 by Pramila Associates, FFI's lawyer firm.

10. Conclusions

In June FWF came to the final conclusion after considering all the events that FFI not only has been acting in violation with the International Labour Standards on Freedom of Association and the Right to Collective Bargaining and to the basic requirements needed for verifiable code implementation; but has also that it has not shown the will to correct this serious non-compliance by refusing to come to an agreement with the trade union and by sticking to its course of taking legal action against parties that criticised the company.

FWF closed the case and prepared formal report on this case, as our complaint procedure requires.

After consultation with Mexx and, as far as legally allowed with other stakeholders, the report was published in August 2007.

11. Evaluation of responsibilities of the FWF members.

According to FWF's Complaint Procedure :

- If necessary, the member company and the accused party shall formulate a corrective action plan together. Plaintiffs and/or their appointed representatives must not only be informed, but also be involved in the formulation of the corrective actions as much as possible. Plaintiffs and/or their appointed representatives must be involved in the implementation of the corrective action plan whenever appropriate. FWF can facilitate this.
- The member company is responsible to follow up on the complaint and to monitor that the agreed improvements are implemented.

Mexx contacted FFI several times to urge them to solve the issue by agreeing to mediated meetings with the union and stopping their legal actions.

- The interventions by Mexx and brands and others based on GATWU's initial complaint had been going on for a year before FWF got involved by Mexx membership of FWF. FWF and Mexx agreed in consultation with other parties involved to concentrate on the non-compliance with FWF labour standard no 4: 'Freedom of Association and Right to Collective Bargaining' and on FFI's overall obstruction of credible verification of code implementation by making it impossible for local stakeholders to discuss with brands and MSI's.
- Accused party's response to FWF member: FFI reported, according to the union's report of the meeting of June 9 2006: 'that the allegations of violation of workers' rights were far from the truth. They stated that they follow all the statutory rules and abide by conditions imposed by the statutes.'
- At several moments in time Mexx and FWF, amongst others, have proposed to involve a mediator. FFI made it clear that it would not take any step before CCC had taken all

information about this case from their website.

Mexx informed FWF in April 2007 that, as Mexx is in the process of reconsidering its supply chain strategies in general, they wanted to stop ordering from FFI for several reasons. The last orders Mexx already placed will be delivered by Dec07/Jan08.

FWF has assessed the member company's attempts to come to remediation, and concludes that they have seriously tried to get the issues solved. Hence the termination of orders are not to be seen as 'cut&run' policy.