

**WORKER RIGHTS CONSORTIUM ASSESSMENT  
DONG THANH GARMENT JOINT STOCK CO.  
(VIETNAM)  
FINDINGS AND RECOMMENDATIONS**

**June 19, 2020**



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## I. Introduction and Executive Summary

This report presents the findings and recommendations of, and the subsequent response of the factory management to, an assessment by the Worker Rights Consortium (“WRC”) of Dong Thanh Garment Joint Stock Co. (referred to by its owners as “Dong Thanh II,” to distinguish it from a sister plant, “Dong Thanh I,” but referenced herein as “Dong Thanh”), a factory producing apparel in Quảng Ngãi, Vietnam, in the central region of the country. At the time of the WRC’s assessment of the factory, in August through November 2019, Dong Thanh employed about 274 workers.

The WRC conducted its compliance assessment of Dong Thanh pursuant to the WRC’s role as an independent factory monitor for the City and County of San Francisco, California (“the City”) under the City’s Sweatfree Contracting Ordinance (“Ordinance”) which sets labor rights standards for manufacturers of apparel supplied to the City by the City’s vendors.<sup>1</sup> Dong Thanh was identified in disclosure data provided to the WRC by the City as a subcontractor to 5.11 Tactical, the prime contractor to the City’s vendor, Banner Uniform Center (“Banner”), for manufacturing of apparel supplied to the City’s employees. Dong Thanh is a subsidiary of the Taiwan-based garment manufacturing conglomerate, NOA Group Corporation, which, as noted, also owns another factory in Vietnam, Dong Thanh I.<sup>2</sup>

San Francisco’s Ordinance requires manufacturers of apparel supplied to the City to comply with all applicable national labor and employment laws of the country where manufacturing occurs, and certain additional labor standards, including payment of non-poverty wages.<sup>3</sup> As a result, the Ordinance requires that 5.11 Tactical ensures that Dong Thanh complies with Vietnamese labor laws and regulations, as well as with those conventions of the International Labour Organization (ILO) that the country’s government has ratified<sup>4</sup> or is otherwise obligated by national and/or international law to enforce.<sup>5</sup>

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<sup>1</sup> *Codified as*, San Francisco, Cal., Administrative Code, Ch.12U (“Adm. Code”) (2005), *as amended*, Feb. 11, 2010, [http://library.amlegal.com/nxt/gateway.dll/California/administrative/chapter12usweatfreecontracting?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco\\_ca\\$anc=JD\\_Chapter12U](http://library.amlegal.com/nxt/gateway.dll/California/administrative/chapter12usweatfreecontracting?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$anc=JD_Chapter12U).

<sup>2</sup> NOA Group Corp., “About Us,” <https://www.thenoagroup.com.tw/about-us>.

<sup>3</sup> Adm. Code, Ch.12U.

<sup>4</sup> Vietnam has ratified 21 Conventions of the ILO, of which 18 concern labor rights and working conditions (the remaining three address government employment policy and labor ministry administration). Six of these 18 are the ILO’s “Fundamental Conventions”: Conventions 29 (Forced Labour), 87 (Freedom of Association and Right to Organize), 138 (Minimum Age), 182 (Worst Forms of Child Labour), 100 (Equal Remuneration), and 111 (Discrimination (Employment and Occupation)). The remaining 12 are “Technical Conventions”: Conventions 6 (Night Work of Young Persons (Industry)), 14 (Weekly Rest (Industry)), 27 (Marking of Weight (Packages Transported by Vessels)), 45 (Underground Work (Women)), 80 (Final Articles Revision), 116 (Final Articles Revision), 120 (Hygiene (Commerce and Offices)), 123 (Minimum Age (Underground Work)), 124 (Medical Examination of Young Persons (Underground Work)), 155 (Occupational Safety and Health), 187 (Promotional Framework for Occupational Safety and Health), and Maritime Labour Convention, 2006 (MLC, 2006). As an ILO member state, Vietnam is also obligated under the ILO Declaration on Fundamental Principles and Rights at Work (1998) to comply with all “Fundamental Conventions”, which additionally includes Convention 98 (Right to Organize and Collective Bargaining), even though it has not ratified this convention.

<sup>5</sup> Constitution of the Socialist Republic of Viet Nam, Article 12 (“The Socialist Republic of Vietnam shall consistently . . . abide by the Charter of the United Nations and treaties to which the Socialist Republic of Vietnam is

As detailed in Section III of this report, the WRC's assessment of Dong Thanh found violations of Vietnamese labor law, relevant international labor standards, buyer codes of conduct, and/or the City's Ordinance in the following areas:

### ***Wages and Hours***

- **Excessive Overtime** – including, on occasion, unlawfully permitting workers to perform overtime in excess of the maximum permissible under Vietnamese law;
- **Non-provision of Breaktime** – including failing to provide workers with two legally mandated short break periods—one in the morning and one in the afternoon;
- **Non-poverty Wages** – including that, while complying with Vietnam's legal *minimum* wage standard, Dong Thanh fails to provide employees with a wage for regular working hours that meets the City's *non-poverty* wage standard;
- **Punitive Wage Deductions** – including unlawfully deducting workers' entire monthly attendance bonus when workers take more than two days of statutory sick leave or family leave, even if this leave has already been approved, thereby restricting workers' access to this leave;
- **Inadequate Childcare Allowance** – including failing to provide a legally required allowance for childcare that complies with its buyer's code of conduct;
- **Inadequate Pay Records** – including failing to comply with the City's Ordinance by failing to maintain records of how certain workers' wages are calculated;

### ***Statutory Paid Time Off***

- **Restrictions on Use of Sick Leave and Family Leave** – including, as noted, restricting workers' use of these statutory benefits by deducting their entire attendance bonus whenever workers take more than two days of sick leave or family leave, even if this leave has already been approved;

### ***Freedom of Association***

- **Employer Domination of Factory Labor Union** – including by having the leadership of the factory labor union that represents its production workers entirely comprised of members of the management and office personnel;

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a contracting party...."), <http://vietnamnews.vn/politics-laws/250222/the-constitution-of-the-socialist-republic-of-viet-nam.html>.

### *Occupational Safety and Health<sup>6</sup>*

- **Fire Safety Hazards** – including locked and otherwise obstructed exits, obstructed aisleways, and unsafe storage of flammable gases, combustible supplies, and waste materials;
- **Inadequate Personal Protective Equipment** – including failing to provide proper equipment to protect workers from exposure to chemical vapors and steam burns;
- **Machine Guarding** – including exposure to potential injuries from unguarded cutting and fan blades, belt-drives, and needles;
- **Electrical Hazards** – including hazards from spliced and hanging electrical cords and ungrounded outlets;
- **Ergonomics** – including seating machine operators on unpadded backless wood benches; and
- **Respiratory Hazards** – including exposure to chemical vapors and particulates from laser cutting machinery.

The violations and concerns identified above, as well as the methodology by which the WRC reached these findings, are discussed in further detail in the body of this report. For each finding, the report also details the recommendations that the WRC gave to Dong Thanh for how the identified violations could be corrected.

Dong Thanh, in February 2020, provided a detailed corrective action plan in response, which was supported by documentation and photographs of steps it reported it had already taken to address many of the violations. The factory management's responses to each of the WRC's recommendations, and the current status of the WRC's findings are detailed in the body of this report. As also discussed in detail, although a significant number of violations remain outstanding, in many other areas, the factory committed to and provided documentary evidence of having already completed corrective actions to address the WRC's findings.

Please note that the fact that the WRC's investigation, as reported in this document, did not yield findings of violations in certain areas of the factory's labor practices should not be construed as a certification of the factory's overall compliance with respect to its practices in those general areas. Also note that, although this assessment included an overall safety and health inspection by a certified industrial hygienist, it did not include specialized fire, electrical, or structural safety inspections by engineers in those fields and so also should not be considered to denote the factory's compliance with respect to issues where only such specialists can provide such a certification.

In addition, the WRC's assessment of Dong Thanh also identified two other issues that, while they do not violate the City's Ordinance or other legal or contractual standards to which the

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<sup>6</sup> It should be noted that, as the WRC's health and safety assessment of the factory was conducted prior to the onset of the Covid-19 pandemic, the discussion in this report does not touch on the important infection control measures that are necessary for factories to adopt to protect garment workers from transmission of Covid-19. For discussion of such measures, see, WRC and Maquiladora Health & Safety Support Network, "Effective Infection Control Practices and Policies for Operating Apparel and Textile Factories," April 2020, <https://www.workersrights.org/wp-content/uploads/2020/04/WRC-MHSSN-Infection-Control-04102020.pdf>.

factory is subject, are discussed in this report, as they are inconsistent with basic principles of responsible business practice. The first, which was raised consistently by employees, is the inferior quality and inadequate quantity of food served to workers in the factory's canteen as their mid-day meal, which, given the low wages paid to employees, workers rely on as a significant part of their daily nutrition. The second is the factory's failure to provide workers with written wage statements, which makes it difficult for employees to determine how their wages are being calculated and whether the company is properly paying them.

In conclusion, although the violations the WRC has identified at Dong Thanh are significant, many of these have already been corrected and the remainder are highly amenable to remediation and correction by 5.11 Tactical, with the assistance and involvement of its contractor, Banner. The WRC asks that 5.11 Tactical provide their response to this report by July 20, 2020, so that the process of remediation and corrective action can be completed.

## **II. Methodology**

The WRC initiated its assessment of Dong Thanh in August 2019. The WRC's findings and recommendations with respect to Dong Thanh are based on the following sources:

- Interviews with 50 current Dong Thanh production employees, 15 of which were in-depth surveys and the remaining 35 of which were more limited conversations that were conducted between August and November 2019, both offsite at locations away from the factory chosen by the employees and onsite at the facility during the WRC's October 14, 2019, inspection of the plant;
- Interviews with Dong Thanh managers, which were conducted at the factory premises;
- A physical inspection of the factory conducted on October 14, 2019, which included an occupational safety and health assessment by a certified industrial hygienist;
- A review of relevant company records; and
- A review of relevant Vietnamese labor laws, international labor standards and the City's Ordinance.

## **III. Findings, Recommendations, Factory Response, and Current Status**

The subsections below detail the findings and recommendations of the WRC with respect to working conditions and labor practices at Dong Thanh that violate Vietnamese labor laws, relevant international labor standards, the City's Ordinance and/or the code of conduct of the factory's buyer, 5.11 Tactical, which is the supplier to the City's vendor, Banner, of the goods produced in the factory that Banner provides to the City. The subsections also detail the factory's response to these findings and the WRC's assessment of the extent to which the corrective measures the factory has taken have fully remedied the violations.

## A. Working Hours

Dong Thanh has a single-shift schedule for production employees, who work from 7:30 a.m. to 4:30 p.m. six days per week. A review of the workers' employment contracts revealed that the workers have a contractual right to a one-hour unpaid lunch break between 11:30 a.m. and 12:30 p.m.

Dong Thanh's wage policy stated, and workers confirmed that, as required under Vietnamese law,<sup>7</sup> female employees may choose, for three days each month when they are menstruating, to take an additional half-hour paid break or, if they elect to forgo this break, to receive an additional one and one half hours' wages equaling around Vietnamese Dong ("VND") 28,000 (approximately US\$1.24). A review of the factory's payroll records revealed that most women workers at the factory choose the latter option and receive these additional wages. Also, in accordance with Vietnamese law,<sup>8</sup> the factory permits employees who are pregnant, starting in the seventh month of their pregnancies, to leave work one hour before the end of their work shifts.

As discussed below, the WRC identified some instances of unlawful excessive overtime at Dong Thanh, however, both interviews with factory workers and company payroll records indicated that these violations were not highly prevalent across the facility.

### 1. Excessive Overtime

#### *Findings*

Most of the workers interviewed by the WRC stated that they usually perform only a few hours of overtime per week. Workers cited the limited amount of overtime they are required to perform as an advantage of working at Dong Thanh rather than at other garment factories in the area. Most, but not all, of the workers whom the WRC interviewed reported performing amounts of overtime that were within the limits set under Vietnamese law of 12 hours per week, 30 hours per month and 300 hours per year.<sup>9</sup> A few of the workers whom the WRC interviewed, however, stated that during some periods they perform up to 40 or 60 hours of overtime per month, which is well in excess of the legal maximum.

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<sup>7</sup> Vietnam Decree No. 45/2013/NĐ-CP, Article 3 ("Periods included in paid working hours [...] A rest period of 30 minutes every day for menstruating female employees.").

<sup>8</sup> Vietnam Labor Code ("Labor Code"), Article 155 (2) ("A female employee who performs heavy work, on reaching her seventh month of pregnancy, is entitled to be transferred to lighter work or to have her daily working hours reduced by 01 hour while still receiving her full wage.").

<sup>9</sup> Labor Code, Article 106 (2b) ("[e]nsuring that the number of overtime working hours of the employee does not exceed 50 percent of the normal working hours in 01 day; in case of applying regulation on weekly work, the total normal working hours plus overtime working hours shall not exceed 12 hours in 01 week; [and] overtime working hours shall not exceed 30 hours per month and 200 hours in 01 year, except for some special cases as regulated by the Government, [where] the total number of overtime working hours shall not exceed 300 hours in 01 year").

The WRC reviewed the company's payroll records from May through August 2019, which indicated that workers did not perform overtime beyond the weekly and monthly limits. The WRC did find, however, that the records showed that, during this period, some workers performed on average 30 hours per month of overtime, a schedule that, if sustained for more than 10 months in a single year, would exceed the annual limit.

In these limited cases, Dong Thanh fails to comply with the law in regard to the maximum number of weekly and/or monthly overtime hours employees can work per month and, by extension, is in violation of the City Ordinance.

#### *Recommendations*

The WRC recommended that, in order to comply with Vietnamese law, and thus the City's Ordinance, Dong Thanh should review its production scheduling to ensure that workers are not allowed to perform overtime in excess of the legal limits.

#### *Factory Response and Current Status*

The management of Dong Thanh explained that, as is not uncommon in the apparel industry, its business is highly seasonal, and workers perform significantly more overtime during the period from May through August than they do during the remainder of the year, when, the factory claimed, "there is hardly enough work for the workers and, normally, would not have any working overtime." As a result, the factory asserted, workers do not exceed the 300-hour annual maximum for overtime under Vietnamese law.

The management also claimed that, in addition—and in contradiction to workers' testimony to the WRC—none of its employees exceed the 30-hour monthly limit for overtime under the law. By way of support for these assertions, the factory management provided a copy of its payroll record (with working hours) for May 2019 and sample records of monthly working hours for two of the factory's employees for all of 2019.

As the WRC's own review of the company's payroll records had, as noted, already found, the records provided by the factory management did not display particular instances of working hours that violated the legal limits. It must be noted, however, that it is not uncommon for garment factories to present to outside monitors time records that do not accurately depict their workers' overtime hours.

In addition, even the sample records provided by the company showed that, contrary to the management's assertion, workers perform considerable amounts of overtime outside of the factory's peak production season. For example, the two employees for whom the company provided a year round record of their monthly working hours both performed overtime near to or at the legal monthly limit (29 to 30 hours) in January, March, and April of 2019, all months outside the peak season of May through August that the company cited.

For this reason, and in light of the consistent testimony of employees that at least some workers at the factory perform overtime beyond the legal maximums, the WRC reaffirms its

recommendation that the factory take measures to limit overtime work. For its part, Dong Thanh committed to take greater care to ensure it complies with Vietnamese law in this regard.

## 2. Failure to Provide Short Rest Breaks

### *Findings*

Vietnamese law requires employers to provide at least two short rest breaks per day,<sup>10</sup> in addition to a longer meal break. The law states that the timing and duration of these rest breaks should be stipulated in the factory's internal work rules, and the breaks must be paid. A majority of the factories in Vietnam whose labor practices the WRC has assessed comply with this requirement by providing employees two five-minute rest breaks, one of which is in the morning and the other of which is in the afternoon.

However, the workers at Dong Thanh whom the WRC interviewed reported that they were not given any such short breaks. Workers added, however, that the factory's supervisors did not maintain a strict requirement that they remain seated at their workstations throughout their shifts, so that they were able to stand, stretch, and walk briefly if they needed. While this testimony reflects positively on the company's supervisory practice, the company's failure to affirmatively grant employees at least two short rest breaks during the day still violates the law.

### *Recommendations*

The WRC recommends that, in order to comply with Vietnamese law and thus the City's Ordinance, Dong Thanh should introduce a practice of granting employees at least two daily short rest breaks of at least five-minute durations.

In addition, Dong Thanh should provide compensation to workers for the statutory rest breaks which they have not been provided to date. As employees performed work in lieu of receiving these breaks, this compensation should be in the form of wages calculated at the premium overtime rates.

### *Factory Response and Current Status*

Dong Thanh's management responded to the WRC's findings by stating that the factory is in compliance with the law since the company's internal policies "offer" workers a daily 15-minute break, in addition to their one-hour meal break, from 3:30 – 3:45 p.m., and that workers who spoke to the WRC must be "confused" about not receiving any rest breaks. The company also claimed that the labor law does not require two short rest breaks during the workdays.

However, the WRC notes that, unlike the one-hour meal break, the purported 15-minute break is not mentioned in the workers' employment contract nor was it observed to be taken by workers on the day that the WRC visited the factory. Moreover, the relevant section of the labor law clearly refers to "breaks" in the plural.

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<sup>10</sup> Labor Code, Article 108 (3) ("In addition to the rest break prescribed in Clause 1 and Clause 2 of this Article, an employer shall determine other short breaks, as stipulated in the internal work regulations.").

Accordingly, the WRC reiterates the recommendation that Dong Thanh should provide and ensure employees take at least two daily short rest breaks, comprised of one break in the morning and one break in the afternoon. Moreover, Dong Thanh should compensate workers for the statutory rest breaks which they have not received to date.

## B. Wages and Benefits

In Vietnam, the applicable legal minimum wage varies depending on the designated Economic Region in which the workplace is located.<sup>11</sup> Dong Thanh is located in the Sơn Tịnh District of the Quảng Ngãi province, which is part of Economic Region III. In January 2019, the monthly base minimum wage in Economic Region III was set at VND 3,250,000 (US\$143.50).<sup>12</sup>

In addition, Vietnamese law requires that the wage rates employers pay must include a seven percent premium over the minimum wage for skilled workers;<sup>13</sup> and an additional five percent wage premium for hazardous work.<sup>14</sup> Vietnamese law has classified operating industrial sewing machines as work that is both “skilled” and “hazardous,”<sup>15</sup> which means that the minimum legal wage for sewing operators at Dong Thanh is 12 percent above the regional minimum wage, or VND 3,651,375 (US\$157.70) per month.

Dong Thanh’s company wage scale states and a review of workers probationary contracts and regular contracts signed in 2019 confirmed that the starting monthly wage at the company is VND 3,652,000 (US\$161.24), which slightly exceeds the legal minimum.

A review of factory payroll records conducted by the WRC in October 2019 showed that all workers at the facility received the lowest wage paid to post-probationary sewing workers, which was VND 3,792,000 (US\$167.40) including bonuses for fulfilling production targets. The WRC confirmed these wage figures through interviews with factory workers.

In addition, payroll records showed, and interviews with workers confirmed, that Dong Thanh also provides employees with several monthly allowances to supplement their wages. These include a transportation allowance of VND 300,000 (US\$13.25), a housing allowance of VND 200,000 (US\$8.83), and a food allowance of VND 200,000 (US\$8.83).

Employees who were not absent from the factory on any work days during the preceding month also receive a bonus for perfect attendance of VND 300,000 (US\$13.25). In addition, as is

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<sup>11</sup> Labor Code, Article 91; Decree 157/2018/NĐ-CP; and Circular 33/2013/TT-BLĐTBXH.

<sup>12</sup> The exchange rate used in this report is US\$1 = VND 22,650.

<sup>13</sup> Decree 49/2013/NĐ-CP, Article 7(3b) (“The lowest wage level of the work or title requiring labourers to have to be received vocational training (including labourers trained by enterprises themselves) must be at least 7 percent higher than the region-based minimum wage levels prescribed by the Government.”).

<sup>14</sup> Decree 49/2013/NĐ-CP, Article 7(3c) (“The wage level of work or title with the heavy, hazardous and dangerous labour conditions must be at least 5 percent higher; work or title with the special heavy, hazardous and dangerous labour conditions must be at least 7 percent higher than the wage level of work or title having the equivalent complexity but working in normal labour conditions”).

<sup>15</sup> Nguyen Hong Ha et al, *Guide to Vietnamese Labor Law for the Garment Industry* (International Labor Organization and International Finance Corporation, 7<sup>th</sup> ed, (2019)..

customary for employers in Vietnam, the factory typically provides workers with an annual bonus for the Têt (lunar new year) holiday that is equal to one month's base wages exclusive of allowances or bonuses.

In November 2018, Dong Thanh also established a wage scale which provides for all employees to receive annual five percent wage increases. The WRC's review of payroll documents confirmed that workers received wages that reflected these increases.

Finally, as discussed below, Dong Thanh also provides female workers with children between one and six years of age with a childcare allowance of VND 50,000 (US\$2.21) per month, however, it should be noted that this amount is substandard among Vietnamese garment factories. The WRC confirmed, through interviews with workers, as well as review of the company's payroll records, the payment to employees of this allowance.

While the wage practices above are consistent with and, indeed, go beyond the requirements of Vietnamese labor laws and regulations, as discussed below, the WRC did identify certain other wage practices at the factory that failed to comply with the law, the City's Ordinance, and/or the code of conduct of Dong Thanh's buyer, 5.11 Tactical. These are: (1) failure to pay wages that meet the Ordinance' non-poverty wage standard; (2) punitive deductions from workers' wages that are unlawful; and (3) a childcare allowance that violates 5.11 Tactical's code of conduct.

## 1. Non-poverty Wages

### *Findings*

While compliant with Vietnam's legal *minimum* wage standard, the average wages Dong Thanh employees receive for regular working hours falls somewhat short of the minimum *non-poverty* wage rate that the factory is required to pay workers under the Ordinance. In 2019, the City set its minimum non-poverty wage rate for Vietnam at US\$1.10 per hour, excluding benefits, and at US\$1.32 per hour, including healthcare and retirement benefits.<sup>16</sup>

As discussed above, the WRC found, based on a review of the company's payroll records and workers' reported monthly wages, that the starting wage at the factory is VND 3,652,000 (US\$161.24) per month. In addition to this amount, as noted, workers are paid a transportation allowance of VND 300,000 (US\$13.25), a housing allowance of VND 200,000 (US\$8.83), and a food allowance of VND 200,000 (US\$8.83), which, since their receipt is not contingent on the worker having perfect attendance, fulfilling production quota, or being a mother to a young child, can be considered as components of the factory's minimum wage.

As a result, for determining compliance with the City's non-poverty wage standard, applicable monthly minimum wages at Dong Thanh are VND 4,352,000 (US\$187.71) per month, or VND 4,656,000 (US\$200.83) per month if one includes the annual Têt bonus (but not including contingent attendance or production-based bonuses). These figures are the equivalent of US\$0.90

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<sup>16</sup> City of San Francisco Office of Labor Standards Enforcement, "Sweatfree Contracting Ordinance (Administrative Code Chapter 12U): 2019 International Wage and Benefit Rates," [https://sfgov.org/olse/sites/default/files/2019\\_Wage\\_percent20Rates\\_percent20International\\_0.pdf](https://sfgov.org/olse/sites/default/files/2019_Wage_percent20Rates_percent20International_0.pdf).

and US\$0.97 per hour, respectively,<sup>17</sup> or 82 percent and 88 percent of the City's non-benefitted non-poverty wage.

Including contingent bonuses available to most workers, such as the monthly bonuses for perfect attendance (VND 300,000 (US\$13.25)) and fulfilling production quotas (VND 140,000 (US\$6.04)), but not the childcare allowance that is only paid to mothers of young children, increases these figures to VND 4,792,000 (US\$206.69) per month, or VND 5,096,000 (US\$219.81) per month including the Tết bonus. These figures are the equivalent of US\$0.99 and US\$1.07 per hour, respectively,<sup>18</sup> or 90 percent and 97 percent of the City's non-benefitted non-poverty wage. As a result, even if one calculates the wages of workers at Dong Thanh by including monthly compensation that is not actually guaranteed to employees (as its receipt is contingent on the employees' attendance and productivity), their pay still falls short of the City's non-poverty wage standard.

Under the City's Ordinance, an employer can also comply with the non-poverty wage requirement by paying a base wage and providing healthcare and retirement benefits whose total value is 20 percent higher than the non-benefitted non-poverty wage, which, for Vietnam, is US\$1.32 per hour. In Vietnam, healthcare and retirement benefits are provided to employees through state-run social insurance and health insurance programs. Employers' mandatory contributions to these programs total 20.5 percent of workers' wages.<sup>19</sup> As a result, even if one includes both the value of these employer contributions, and the contingent bonuses discussed above, when calculating workers' wages, the compensation paid to workers at Dong Thanh does not meet the benefitted non-poverty wage standard under the City's Ordinance.<sup>20</sup>

### *Recommendations*

The WRC recommends that Dong Thanh ensure compliance with the City's non-poverty wage requirement by increasing workers' base monthly wages, inclusive of monthly allowances and the customary annual bonus, but exclusive of contingent production and attendance bonuses and childcare allowance, by amounts sufficient to provide a minimum pay rate that complies with the City's non-benefitted non-poverty wage standard for Vietnam. Should payment of the non-poverty wage not be financially feasible for the factory, the WRC recommends that 5.11 Tactical and Banner assist Dong Thanh in complying with this standard.

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<sup>17</sup> VND 4,352,000 x 12 months/313 working days = VND 166,850 per day. 166,850/8 hours = VND 20,856 per hour (US\$0.90 per hour). VND 4,352,000 x 13 months/313 working days = VND 180,754 per day. 180,754/8 hours = VND 22,594 per hour (US\$0.97 per hour).

<sup>18</sup> VND 4,792,000 x 12 months/313 working days = VND 183,718 per day. 183,718/8 hours = VND 22,964 per hour (US\$0.99 per hour). VND 4,792,000 x 13 months/313 working days = VND 199,028 per day. 199,028/8 hours = VND 24,878 per hour (US\$0.97 per hour).

<sup>19</sup> Nguyen Hong Ha et al, *Guide to Vietnamese Labor Law for the Garment Industry*, International Labor Organization and International Finance Corporation (5<sup>th</sup> ed. 2017): 32.

<sup>20</sup> 82 percent x 120.5 percent = 98.4 percent < 120 percent; 88 percent x 120.5 percent = 106 percent < 120 percent; 90 percent x 120.5 percent + 108 percent < 120 percent; 97 percent x 120 percent = 117 percent < 120 percent.

### *Factory Response and Current Status*

Dong Thanh's management responded to the WRC's finding that the factory fails to meet the City's non-poverty wage requirement by affirming that the factory complies with the applicable legal minimum wage for all workers and pointing out that the total salaries for non-piece-rate workers is between 5,000,000 to 7,000,000 VND per month. The WRC notes that because the factory's existing wages are within 10% of the non-poverty wage standard it should be feasible, through cooperation between the management, 5.11 Tactical and Banner, to raise the workers' wages to comply with the City's standard, and urges that this be done.

## **2. Punitive Wage Deductions**

### *Findings*

Vietnamese labor law prohibits employers from using wage deductions as a form of discipline or punishment.<sup>21</sup> The WRC found that Dong Thanh violates this prohibition by penalizing workers for use of statutory sick leave.

Workers whom the WRC interviewed related that Dong Thanh deducts the entire amount of the worker's monthly attendance bonus from the worker's pay if the worker is absent on more than two days, even if the reason for absence is use of statutory sick or family leave (leave to care for an ill child)—and even if this leave had already been approved by the company. The monthly attendance bonus totals VND 300,000 (US\$13.25), or nearly seven percent of workers' ordinary monthly compensation, so its forfeiture inflicts a significant financial penalty on employees.<sup>22</sup>

In such cases, the amount of the deduction is so disproportionate to the employee's actual absence from work—especially as it applies even if the absence has been approved by the company and consists of leave to which the worker has a legal right—as to be punitive and disciplinary in nature, which violates the prohibition on such deductions under Vietnamese law.<sup>23</sup> Moreover, as discussed further below, this forfeiture also imposes an unlawful restriction on workers' use of statutory leave.

### *Recommendations*

The WRC recommends that Dong Thanh revise its policy and practices concerning provision of the attendance bonus so that the use of statutory sick or family leave does not result in a deduction from or forfeiture of the attendance bonus and communicate this change in policy to all of the factory's workers. The WRC also recommends that Dong Thanh compensate

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<sup>21</sup> Labor Code, Article 128: ("Prohibited Actions When Commencing Disciplinary Procedure: ... All forms of financial punishments such as withholding or diminution of salary....").

<sup>22</sup> Including wages and allowances, but not other contingent or occasional bonuses, such as the target bonus and Tết holiday bonus, workers' monthly compensation, including the attendance bonus equals VND 4,652,000. VND 300,000 / VND 4,652,000 = 6.4 percent.

<sup>23</sup> Labor Code, Article 128.

employees for all attendance bonuses that were deducted from workers' pay on account of the employees' use of statutory sick or family leave.

#### *Factory Response and Current Status*

Dong Thanh's management responded to the WRC's finding in this area by asserting that since providing the attendance bonus is not required by law the company does not violate the statutory prohibition on punitive wage deductions by denying it to employees based on their use of sick leave or family leave. The factory's position, therefore, is not that the deduction is not punitive, but that the funds the company is deducting are not "wages" subject to the prohibition on such a deduction.

However, the prohibition under the Labor Code makes unlawful all deductions of "salary", which the law explicitly defines as the "*amount the employer pays the employee* under an agreement for a work performed by the latter" which includes the employee's "base salary *plus* allowances *and* other additional amounts"<sup>24</sup> (emphases added). As attendance bonuses are part of the "amount the employer pays the worker", even if they fall under the category of "other additional amounts" rather than "base salary", they fall under the definition of "salary".

As such, attendance bonuses are subject to the legal prohibition on punitive deductions. The WRC reaffirms the finding that Dong Thanh violates this prohibition when it deducts workers' attendance bonus in punishment for their use of approved statutory sick leave or family leave, and the WRC reaffirms the recommendation that Dong Thanh ceases this practice and compensates workers for any such prior deductions it has made.

### **3. Inadequate Childcare Allowance**

#### *Findings*

As mentioned above, Vietnamese law requires that employers promote access to childcare for their female employees who have small children, either by assisting and supporting the building of daycare facilities or by covering a portion of their childcare expenses.<sup>25</sup> While the WRC found that Dong Thanh does provide such workers with a childcare allowance, the amount of this allowance is only VND 50,000 (US\$2.21) per month per employee. Compared to the actual expenses incurred by workers for childcare, this is not a substantial contribution.

The childcare allowances that garment factories in Vietnam provide to their workers in order to comply with this legal mandate vary in amount, but among factories in Vietnam that the WRC has inspected since 2015 the average childcare allowance factories provide to workers is roughly VND 100,000 (US\$4.42), double the amount that Dong Thanh currently provides for this allowance. While failing to provide a childcare allowance whose amount is comparable to that paid by other factories does not violate the City's Ordinance, it does contravene the code of conduct of Dong Thanh's buyer (and the City's supplier), 5.11 Tactical, which requires that

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<sup>24</sup> Labor Code, Article 90(1).

<sup>25</sup> Labor Code, Article 154 (4) ("Employers shall assist and support in building day care facilities and kindergartens, or in covering a part of the childcare expenses incurred by female employees.").

compensation paid to employers equal or exceed not just the legal minimum wage, but the prevailing standards in the industry as well.<sup>26</sup>

#### *Recommendations*

To comply with the 5.11 Tactical's code of conduct, the WRC recommends that Dong Thanh ensure that workers are provided statutory childcare allowances at a level equal to or exceeding the industry standard, which, based on the WRC's experience is no less than VND 100,000 per month.

#### *Factory Response and Current Status*

Dong Thanh responded to the WRC's finding by citing examples of childcare allowances paid by four other garment and textile factories in the area whose amounts are equal to or less than the allowance that it provides to its workers.

However, there is no indication whether these factories actually constitute a representative sample of garment factories in the local labor market. If 5.11 Tactical believes that the childcare allowance paid by Dong Thanh reflects prevailing industry practice in Vietnam and therefore complies with its code of conduct, it should provide evidence as to how this amount compares to the allowances paid by its other suppliers.

### **4. Inadequate Payroll Records**

#### *Findings*

The City's Ordinance requires that factories supplying vendors to the City and their contractors "maintain basic payroll and time records for each Worker" that include, for each day that an employee works, her rate of pay, the number of hours worked, the actual wages paid, and any deductions.<sup>27</sup> The WRC found that the payroll records that Dong Thanh presented for review during the WRC's inspection of the factory, with regard to employees in the plant's cutting section, did not identify their applicable rates of pay and hours of work.

Specifically, the company's payroll records do not identify, for these employees, their basic wage rate, the amounts of the bonuses they earn for meeting production targets, or their overtime pay rate and overtime pay but, instead, list only their total wages for the day.

Moreover, as discussed further below, this lack of transparency is further exacerbated by the fact that the company also does not provide any of the factory's workers with written pay statements that typically also would include this information. In combination, these omissions not only violate the City's Ordinance, but also make it difficult for both workers and outside assessors to whether employees are being paid correctly for all of the hours that they have worked.

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<sup>26</sup> 5.11 Tactical, Vendor Code of Conduct, <https://www.511tactical.com/vendor-code-of-conduct>.

<sup>27</sup> Adm. Code., Ch. 12U.3.(d).

### *Recommendations*

The WRC recommends that Dong Thanh maintain payroll records and issue pay statements to employees that provide details concerning the number of regular and overtime hours worked, rates of pay for these hours, and the amount of bonuses and deductions included in workers' wages.

### *Factory Response and Current Status*

Dong Thanh acknowledged that it did not provide written pay statements to workers but stated that when workers receive their pay they are given the opportunity to review the company payroll record that shows how their wages are calculated. The company agreed that going forward it would provide a written record to workers when they are paid that includes their regular working hours, overtime hours, bonuses, and allowances.

## **C. Paid Statutory Leave**

Vietnamese law requires employers to provide sick leave to workers when so directed, in writing, by the worker's physician.<sup>28</sup> Workers are paid for sick leave through the country's social insurance program.<sup>29</sup> Employees also have a legal right to take up to 20 days of paid family leave per year to take care of a sick child under the age of three, or 15 days of paid family leave annually to care of a sick child between the ages of three and seven.<sup>30</sup>

The law also requires employers to provide workers in garment and textile factories with 14 days of paid annual leave,<sup>31</sup> plus one additional day of annual leave for every five years of service.<sup>32</sup> With respect to annual leave, Dong Thanh's practice is consistent with the law's requirements. Workers interviewed by the WRC confirmed that employees who have completed fewer than five years of service receive payment for 14 days of such leave each year and that workers with five or more years of service receive 15 annual leave days.

However, with respect to sick leave and family leave, as already noted above and discussed further below, Dong Thanh's practices with respect to taking deductions from employees' wages, place unlawful restrictions on workers' access to these statutory benefits.

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<sup>28</sup> Law on Social Insurance of November 20, 2014, Law 58/2014/QH13 ("Law on Social Insurance"), Article 25 (1), available in English translation at: <http://vietnamlawenglish.blogspot.com/2014/11/vietnam-social-insurance-law-2014.html>.

<sup>29</sup> Law on Social Insurance, Article 25 ("[C]onditions for enjoying the sickness regime: 1. Employees who have to take leave due to sickness or accidents other than labor accidents, with the certification of a competent health establishment under the Ministry of Health's regulations.").

<sup>30</sup> Law on Social Insurance, Article 27 (1) ("Leave period upon sickness of children. The leave period upon sickness of a child in a year shall be calculated based the number of days of care for the sick child, which must not exceed 20 working days, if the child is under 3 years old, or must not exceed 15 working days, if the child is between full 3 years and under 7 years old.").

<sup>31</sup> Labor Code, Articles 111 and 112; Decree 45/2013/NĐ-CP, Article 7; Decision 1152/2003/QĐ-BLĐTBXH of the Minister of Labour, War Invalids and Social Affairs ("Decision") (establishing that textile manufacturing is heavy and hazardous work); Decision 1629/1996/QĐ-BLĐTBXH; also Guide to Vietnamese Labor Law for the Garment Industry at 33.

<sup>32</sup> Labor Code, Article 112.

## 1. Restrictions on Use of Statutory Sick Leave and Family Leave

### *Findings*

As noted, workers interviewed by the WRC revealed that Dong Thanh deducts their entire attendance bonus of VND 300,000 (US\$13.25) per month if the worker has been absent on more than two days of the preceding month, even if the reason for the absence is use of statutory sick leave or family leave—and even if this leave has already been approved by the company.

As the amount of the attendance bonus that is forfeited—VND 300,000 (US\$13.25)—is not insubstantial for the workers, the deduction of this bonus places a significant financial penalty on workers for accessing leaves that they have a legal right to use for their own health and that of their children. The conditions of the company attendance bonus policy, therefore, place unlawful restrictions on workers' access to paid sick leave and family leave through the country's social insurance program.<sup>33</sup>

### *Recommendations*

Dong Thanh should rescind any policy that restrict or reduce workers' eligibility for the company's attendance bonus on account of their using paid leave to which they are legally entitled. The company should also compensate workers for the amount of any attendance bonuses that were forfeited by the employees on account of their having used sick leave or family leave during the preceding months.

### *Factory Response and Current Status*

As noted above, Dong Thanh has asserted that, since providing the attendance bonus is not required by law, the company does not violate the statutory prohibition on punitive wage deductions by denying it to employees based on their use of sick leave or family leave. As we also point out above, by asserting this, Dong Thanh is not actually arguing that the deduction of the attendance bonus is not punitive but, instead, simply claiming that the attendance bonus does not fall under the category of compensation for which punitive deductions are prohibited.

However, Dong Thanh's assertion is incorrect, since the attendance bonus plainly *does* meet the legal definition of compensation that cannot be deducted as punishment (i.e., it is an "additional amount" that is included in the worker's "salary"). Moreover, because, as Dong Thanh does not contest, the deduction of the attendance bonus for use of sick leave or family leave *is* punitive—it is a means of punishment used to disincentivize workers from taking such leave—it restricts workers' access to this statutory benefit.

Dong Thanh is, in effect, making workers choose between forgoing benefits they have a legal right to use without penalty (paid sick and family leave), or suffering a penalty with respect to their compensation (the wage deduction). As such, Dong Thanh's policy unlawfully denies workers their right to statutory sick and family leave. The WRC, therefore, reiterates the

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<sup>33</sup> Law on Social Insurance, Articles 25 and 27.

recommendation that Dong Thanh must discontinue this policy and compensate workers for any such prior deductions it has made.

#### **D. Freedom of Association and Collective Bargaining**

Although an enterprise-level union has been established at Dong Thanh for a number of years, workers interviewed by the WRC described it as serving mainly a social welfare function, including “giving gifts [to employees] during the Têt holiday and provid[ing] a small bonus on [International] Children’s Day [June 1].” As discussed below, the union does not represent factory workers’ interests independent of the company’s management in matters such as employee grievances and bargaining over working conditions, due in large part, apparently, to the fact that the union’s leadership is comprised of office personnel and managers, themselves, a situation that constitutes a clear violation of workers’ rights of freedom association.

##### **1. Influence over Factory Labor Union by Employer and Government**

###### *Findings*

At the level of individual workplaces, many employers in Vietnam restrict freedom of association by dominating and/or influencing the enterprise-level unions inside their factories.<sup>34</sup> Human resource managers are often placed in union leadership, creating a fundamental conflict of interest on the part of the union and an insurmountable bar to unions adequately and independently representing workers’ interests and acting to correct violations of the labor laws.<sup>35</sup>

The WRC found that of the seven members of the governing committee of Dong Thanh’s union, at least three, including the union president, were managers, with the remainder being office staff from the human resources, shipping, and accounting sections. None of the union committee members were production employees.

When interviewed by the WRC, one of the union’s leaders stated that she understood the union’s role as bringing complaints from workers to the management, but that she did not consider the union to have any role to play in ensuring that the complaint was appropriately addressed by the employer.

Having unions led by officials who are members of, or otherwise aligned with, the company management, as is the case with the union at Dong Thanh, constitutes a clear violation of the right of freedom of association, whose observance, as established under ILO Convention 98, requires that “[w]orkers’ and employers’ organisations shall enjoy adequate protection against

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<sup>34</sup> Bernadine Van Gramberg, Julian Teicher, and Tien Nguyen, “Industrial Disputes in Vietnam: the Tale of the Wildcat,” *Asia Pacific Journal of Human Resources* (2013): 4 (“It is common for human resource managers to be the union president in F[oreign] I[invested] E[enterprises]...”).

<sup>35</sup> Van Gramberg et al.: 5 (finding that “human resource managers [serving as] union president” at the same time that the union “is charged with monitoring breaches of the [Labor] Code” create “conflict [between] union leaders’ managerial interest in the success of the company and their capacity to engage in critical scrutiny of enterprise operations...”).

any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.”<sup>36</sup>

### *Recommendations*

Dong Thanh should ensure that the factory's production workers have the opportunity to independently and democratically nominate and elect the union's leadership and that no managers or supervisors play any role in the union.

### *Factory Response and Current Status*

Dong Thanh responded to the WRC's report by acknowledging that having a union committee that did not include production employees was a “mistake” and stating that the company had accordingly “reorganized the union”. The factory management sent the WRC a document that indicated that the managers had been removed from the union committee and that employees from the factory's production sections had been added. It was not clear, however, whether the latter are regular production workers or line leaders (forepersons).

The removal of the managers from the union committee is an important remedial action. Full respect for employees' right of freedom of association, however, requires that workers be permitted to democratically select their own representatives. It appears that the employees from the production sections who are now on the union committee were selected by the factory management, indicating that, in this regard, workers' associational rights are still not fully respected.

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<sup>36</sup> ILO Convention 98 (Right to Organise and Collective Bargaining Convention, 1949) Article 2(1), (2) (“Acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations . . . with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article”).

## E. Occupational Health and Safety

The WRC's assessment of Dong Thanh included, as part of the October 14, 2019, inspection of the factory, a walkthrough of the facility's interior and exterior, a review of company documents regarding safety and health trainings, prior inspections, accident and near-miss reports, and the meetings of the factory's health and safety committee. The WRC also interviewed factory employees and supervisors to obtain information on safety and health management practices, procedures, and internal reporting.

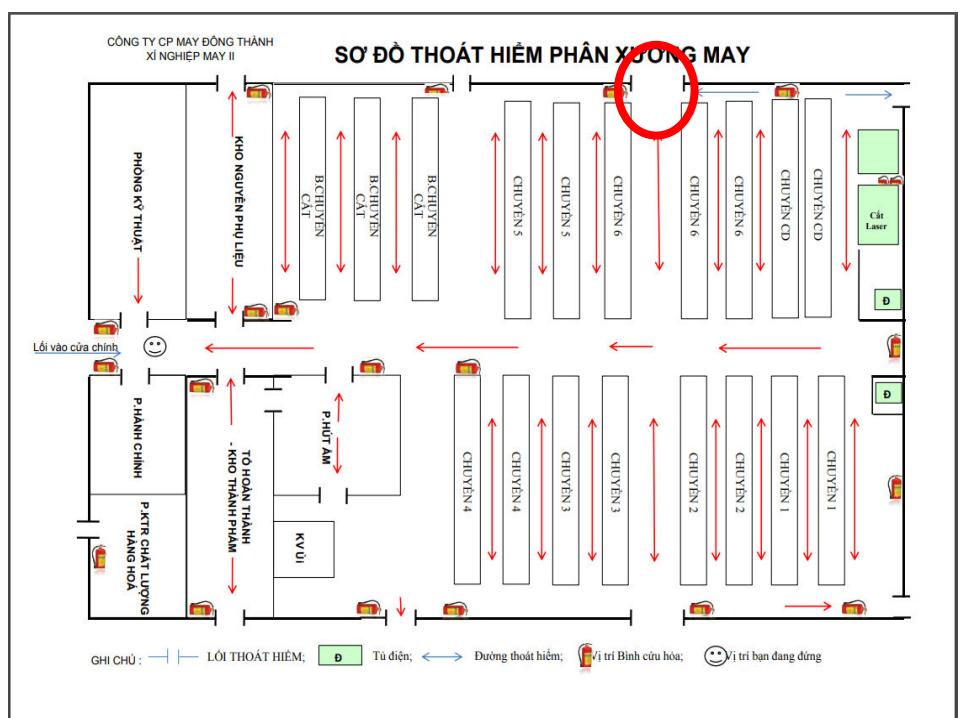


Figure 1: Map of Factory Floor Showing Location of Locked Exit Door

The WRC's safety and health assessment of Dong Thanh was conducted by a certified industrial hygienist who was formerly employed in this capacity by the University of California at Davis. He identified health and safety hazards in the factory which violate applicable Vietnamese laws and regulations in the following areas: fire safety, personal protective equipment, machine guarding, electrical hazards, ergonomic hazards, respiratory hazards, temperature levels, crushing and pinching hazards, toilets, and noise levels.

The factory provided responses to the WRC's findings, including photographs of corrective actions the factory had taken in February 2020. It should be noted that as this research was conducted prior to the onset of the Covid-19 pandemic, the discussion in this report does not touch on the important issues that have arisen since related to infection control measures for any factory operating in the global garment industry.

## 1. Fire Safety

### a. Locked, Lockable, and Obstructed Fire Exits

#### *Findings*

During the day of the WRC's inspection of Dong Thanh, the exits on the perimeter of the factory were unlocked, allowing for emergency egress, although some of the doors were fitted with hasps, that would allow them to be locked. Indeed, the WRC noted, at approximately 10 minutes prior to the end of the workday, that one of the exit doors (see location circled in red in



Figure 3: Locked Exit Door

Figure 1) had been locked with a padlock fitted to a hasp (see Figure 2) in a manner that would have prevented workers from escaping from the factory via that exit in the event of an emergency.



Figure 2: Exit Door 'Pinned' Partially Open

Additionally, the WRC found that, earlier in the day, the same exit door had been fixed in a partially open position, by inserting a metal pin attached to the door into a hole in the concrete flooring, which, in case of emergency, would hinder the ability of employees to rapidly fully open the door to permit workers to exit the factory (see Figure 3).

These potential and actual obstructions to the factory's emergency exits violated Vietnamese workplace safety regulations.<sup>37</sup>

#### *Recommendations*

The WRC recommends that all exits remain unlocked and unobstructed during working hours. Moreover, for all doorways that are designated as emergency exits, the factory should remove all lockable hasps and other equipment and install doors equipped with "panic bars" devices that cannot be locked from the inside.

#### *Factory Response and Current Status*

Dong Thanh committed to ensure that all exits remain unlocked and unobstructed during working hours. However, the company did not commit to remove lockable hasps and other equipment or install doors equipped with "panic bars" devices that cannot be locked from the inside. The WRC repeats its recommendation that the company implement these measures.

<sup>37</sup> Decree 167/2013/ND-CP, Article 38, 2 (a) and 5; Circular 07/2010/TT-BXD, Articles 3.2.10, 3.3.1 and 3.3.5.

## b. Tripping Hazards at Emergency Exits

### *Findings*

There were numerous locations at the emergency exits where broken and uneven flooring presented tripping hazards which could cause injury and delay escape in the event of an emergency (see Figures 4 and 5). One such tripping hazard was actually being repaired during the WRC inspection (see Figure 6). The presence of these tripping hazards at the emergency exits violate Vietnamese safety standards.<sup>38</sup>



Figures 4 – 5: Broken Flooring at Exit Doorway



Figure 6: Employee  
Repairing Broken Flooring

### *Recommendation*

The WRC recommends that the factory ensure that the flooring at all exits is undamaged and does not present a tripping hazard.

### *Factory Response and Current Status*

Dong Thanh reported to the WRC and provided photographic evidence to confirm that it had repaired the uneven flooring in the factory.

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<sup>38</sup> Decree 167/2013/ND-CP, Article 38, 2(a) and 5; Circular 07/2010/TT-BXD, Article 3.2.10 of Clause 3.2, 3.3.1 and 3.3.5.

### c. Storage of Combustible and Flammable Materials

#### i. Waste Storage

##### *Findings*

Although the company claimed that it is emptied on a weekly basis, the area on the premises where cardboard waste is stored was overflowing, suggesting that waste had accumulated for some time (see Figure 7). The storage of copious amounts of combustible materials in this area poses a particular hazard because it is located next to the factory's hazardous waste storage area and violates applicable Vietnamese safety standards.<sup>39</sup>

##### *Recommendations*

The WRC recommends that the factory relocate its storage of combustible material to a separate location from its hazardous waste storage and ensure that combustible material is disposed of regularly and not allowed to accumulate.

##### *Factory Response and Current Status*

The factory provided the WRC with photographs showing that it had disposed of the accumulated combustible material and relocated storage for these materials away from the hazardous waste storage area.

#### ii. Materials Storage

##### *Findings*

The WRC found that the factory stores large quantities of cardboard for packaging finished products inside the factory (see Figure 8). Having large quantities of combustible materials stored within a building that lacks fire sprinklers creates a potential fire hazard and violates Vietnamese safety standards.<sup>40</sup>



Figure 7: Overflowing Combustible Waste Storage next to Hazardous Waste Storage (“Kho Chứa Rác Thải Nguy Hại”) Area.

<sup>39</sup> Law on Fire Prevention and Fire Fighting; Articles 14 and 20; Circular 20/2011/TTBLLDTBXH; QCVN 01:2008/BCT, Article 67; Decision 12/2008/QD-BCT.

<sup>40</sup> Law on Fire Prevention and Fire Fighting; Articles 14 and 20; Circular 20/2011/TTBLLDTBXH; QCVN 01:2008/BCT, Article 67; Decision 12/2008/QD-BCT.



Figure 8: Excessive Storage of Combustible Packaging

### *Recommendations*

The WRC recommends that the company reduce the amount of combustible materials stored inside the factory to the minimum required for immediate production needs.

### *Factory Response and Current Status*

The factory committed to monitor the quantity of cardboard boxes needed for production purposes in order to avoid storage of excessive quantities inside the factory.

### **iii. Flammable Gasses Storage**

#### *Findings*

The WRC found that the compressed gas cylinders used for cooking in the factory's canteen are located in a separate room adjacent to the canteen kitchen. The gas cylinders are not secured to the wall with restraints to prevent them tipping over and potentially releasing flammable gas (see Figure 9).



Figure 9: Unsecured Gas Cylinders



Figure 10: Gas Cylinder on Left Not Connected to Emergency Shut-Off

In addition, all but one of these cylinders are manifolded to a single supply line with a shut-off button enabling the gas flow to be quickly shut-off in case of an emergency. However, one cylinder is connected to a gas line that is not connected to the manifold and, therefore, would not be shut-off when the button is pressed, so that its valve would need to be separately closed in case of emergency (see Figure 10). These conditions violate Vietnamese fire safety standards.<sup>41</sup>

<sup>41</sup> Law on Fire Prevention and Fire Fighting; Articles 14 and 20; Circular 20/2011/TT-BLDTBXH; QCVN 01:2008/BCT, Article 67; Decision 12/2008/QD-BCT.

### *Recommendations*

The WRC recommends that the factory: (i) reconfigure the gas cylinder storage and supply lines so that all cylinders are connected to the manifold distribution system so that they can be turned off with the shut-off button; and (ii) ensure all the cylinders are secured to prevent unintended tipping and potential release of flammable gas.

### *Factory Response and Current Status*

The factory supplied the WRC with photographs showing that it had secured the gas cylinders and connected all cylinders to the manifold distribution system and its shut-off mechanism.

## **d. Obstructed Aisleways**

### *Findings*

The WRC found numerous aisleways in the factory that were obstructed as a result of storage of fabric, which would hinder employees from exiting these areas quickly in case of an emergency, thereby violating Vietnamese safety standards<sup>42</sup> (see Figures 11 and 12).

### *Recommendation*

The WRC recommends that the factory ensure that all boxes and rolls of fabric are stored in a manner that will prevent them from creating obstructions in the aisleways

### *Factory Response and Current Status*

The factory provided the WRC with photographs showing that the rolls of fabric and boxes had been moved so that they no longer obstruct the aisleways.

## **e. Fire Extinguishers**

### *Findings*

While nearly all of the factory's fire extinguishers had pressure gauges which indicated that they had sufficient pressure to operate properly, two of the fire extinguishers, in apparent violation of



Figure 11: Obstructed Aisleways



Figure 12: Obstructed Aisleways

<sup>42</sup> Labor Code, Article 138; Occupational Safety and Health Law ("OSH Law"), Articles 16 (1) and (2).

general safety standards,<sup>43</sup> did not have pressure gauges to indicate that they had enough pressure to function in the event of a fire.

### *Recommendation*

The WRC recommended that the factory replace these fire extinguishers with new fire extinguishers equipped with pressure gauges.

### *Factory Response and Current Status*

The factory explained that the fire extinguishers in question are of a type that, because they are filled with liquified carbon dioxide, are not fitted with a pressure gauge, but are, nonetheless, approved by Vietnamese government authorities. The WRC was able to confirm that this information was accurate and withdraws the recommendation that they be replaced.

## **2. Personal Protective Equipment (PPE)**

### **a. PPE for Steam Compressor Maintenance**

#### *Findings*

Dong Thanh operates a steam compressor, which is housed adjacent to the main production facility, to generate steam for pressing finished garments. The company provides employees who perform maintenance on the steam compressor with personal protective equipment (PPE) to shield them from steam burns in the form of protective gloves and safety glasses, which were kept just outside the entrance to the room where the steam compressor is housed (see Figure 14).



Figure 14: Steam Compressor with Only Safety Glasses and Gloves Provided for PPE

However, the safety glasses that were present on the day of the WRC's inspection appeared to have not been removed from their original packaging, suggesting they are not consistently used. Moreover, safety glasses and gloves are inadequate to protect workers against a potential exposure of pressurized hot steam to the face or other portions of the body, with the result that the PPE provided does not meet the requirements of Vietnamese safety standards.<sup>44</sup>

<sup>43</sup> Law on Fire Prevention and Fire Fighting, Article 20; TCVN 7435-1:2004 (Fire Extinguishers), Article 5.

<sup>44</sup> Labour Code, Article 149; OSH Law, Articles 16 (3) and 23; Circular 04/2014/TT-BLDTBXH.

### *Recommendation*

The WRC recommends that, in addition to ensuring that basic safety procedures are followed (i.e., that employees who perform maintenance on the steam compressor are trained and qualified to do so and that the steam compressor is powered down while maintenance is performed), that the factory supply and require the use of additional PPE including a face shield, thermal resistant gloves, and an apron.

### *Factory Response and Current Status*

The factory provided photographs showing that it had acquired and issued appropriate PPE for use while performing maintenance on the steam compressor.

## **b. Inadequate Respiratory PPE**

### *Finding*

The factory issues PPE to employees who are exposed to respiratory hazards from machinery, including, as discussed below, the factory's laser cutter. However, the PPE that is issued consists of antimicrobial surgical/dust masks that do not protect against airborne chemical vapors or particulates, thereby failing to comply with Vietnamese safety laws<sup>45</sup> (see Figure 15).



Figure 15: Surgical/Dust Masks Improperly Issued for Chemical Exposure

### *Recommendation*

The WRC recommends that the factory obtain an assessment of the respiratory hazards associated with the use of the factory's various machinery and, where hazards cannot be mitigated through engineering controls, provide appropriate US National Institute of Occupational Safety and Health (NIOSH)-approved respirators.

### *Factory Response and Current Status*

The factory informed the WRC that it will issue employees N95 masks to replace the surgical/dust masks but did not indicate that it had obtained an assessment of respiratory hazards in the factory. The WRC reiterates the recommendation that such an assessment be completed in

<sup>45</sup> Labour Code, Article 149; OSH Law, Articles 16 (3) and 23; Circular 04/2014/TT-BLDTBXH.

order to better identify both engineering controls and PPE that are necessary to address respiratory hazards in the plant.

### 3. Machine Guarding

#### a. Unguarded Fan Blades

##### *Findings*

Dong Thanh maintains a ventilation system which draws outside air through the factory's evaporative cooler using an axial fan. While the fan blades are covered with the dampers when the system is powered down, when the fan is operation, the dampers are open and, in violation of Vietnamese workplace safety laws,<sup>46</sup> the blades are unguarded, with the result that an employee could insert their hand into the path of the fan blades potentially resulting in serious injury (see Figure 16).



Figure 16: Unguarded Fan Blades  
inside Dampers

##### *Recommendations*

The WRC recommends that the factory install adequate guarding, such as a grate between the dampers and the fan blades, to mitigate the risk of workers accidentally contacting the blades.

##### *Factory Response and Current Status*

The factory provided photographs showing the installation of grates that cover the dampers, preventing accidental contact with the fan blades.

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<sup>46</sup> Labour Code, Article 138; OSH Law, Articles 16 (2)-(4).

## b. Cutting Machine

### *Finding*

The WRC found that, in violation of Vietnamese safety standards,<sup>47</sup> a cutting machine in the factory not only has an unguarded blade but is activated by moving a handle that protrudes into an aisleway (see Figures 17 and 18). As a result, a person attempting to navigate the aisleway could accidentally activate the cutting blade, exacerbating the risk of injury from the unguarded blade.



Figure 17: Unguarded Cutting Blade



Figure 18: Activation Handle for Cutting Machine Protruding into Aisleway

### *Recommendation*

The WRC recommends that the factory reconfigure the handle so as not to protrude into the aisleway and to provide guarding around the cutting blade.

### *Factory Response and Current Status*

The factory provided photographs showing the installation of guarding to prevent accidental contact with the cutting blade. However, the protruding handle has not been reconfigured, so the blade, while now guarded, could still be accidentally activated. The WRC reiterates that the handle should be reconfigured to remove this hazard.

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<sup>47</sup> Labour Code, Article 138; OSH Law, Articles 16 (2)-(4).

### c. Grinding Wheel

#### *Finding*

Additionally, a grinding wheel in the factory also violated Vietnamese safety standards,<sup>48</sup> as it did not have shield protectors, tongue guards, or tool rests and was not secured to the table where it is used, (see Figure 19) which, in turn, was not bolted to the floor.

#### *Recommendation*



Figure 19: Unshielded Grinding Wheel

The WRC recommends that the grinding wheel be fitted with shield protectors, tongue guards, and tool rests and be secured to the table where it is used, which should be bolted to the floor.

#### *Factory Response and Current Status*

The factory indicated that the grinding wheel in question would be removed from the factory.

### d. Belt-Driven Machinery

#### *Findings*

The WRC found several pieces of belt-driven machinery that, in violation of Vietnamese safety laws,<sup>49</sup> had exposed moving parts that could cause severe injury if they came into contact with workers' bodies or clothing (see Figures 20-22).



Figures 20-22: Lack of Guarding on Belt-Driven Machines

<sup>48</sup> Labour Code, Article 138; OSH Law Articles 16 (2)-(4).

<sup>49</sup> Labour Code, Article 138; OSH Law, Articles 16 (2)-(4).

### *Recommendation*

The WRC recommends that all machines that have a moving belt be equipped with guarding at the point of operation.

### *Factory Response and Current Status*

The factory provided photographs showing the installation of guarding to prevent accidental contact with the moving belts.



Figure 23: Sewing Machine with Guarding



Figure 24: Lack of Guarding on Sewing Machines

### **e. Sewing Machines**

#### *Findings*

The WRC observed that while many of the factory's sewing machines had guarding in place, there were several that did not (see Figures 23 and 24) The explanation that the company gave for this omission is that the latter use a lower gauge needle, which, they asserted, poses a lower risk of harm. However, even a small needle that unexpectedly breaks could become a projectile and cause severe injury to the eye or face, and, as a result, the lack of guarding violates safety standards.<sup>50</sup>

#### *Recommendation*

The WRC recommends that the factory ensure all sewing machines are equipped with guarding, and, if this is not possible in some cases, provide employees operating those machines with approved safety eyewear.

### *Factory Response and Current Status*

The factory stated that it would install additional guarding on sewing machines but has not provided photographs to verify this.

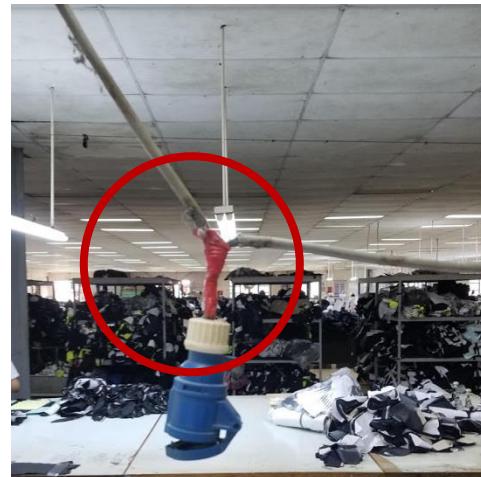
<sup>50</sup> Labour Code, Article 138; OSH Law Articles 16 (2)-(4).

## 4. Electrical Hazards

### a. Electrical Cords

#### *Findings*

The WRC found that Dong Thanh uses flexible electrical cords that unlawfully appear to have been spliced and, in some cases, were suspended in a manner where, if pulled, pressure would be applied to fittings or terminals, creating risks of electrical shock or fire<sup>51</sup> (see Figures 25 and 26).



Figures 25 and 26: Suspended and Spliced Flexible Electrical Cords

#### *Recommendations*

The WRC recommends that, if the company is to continue using flexible power cords, the existing cords must be replaced with cords that are un-spliced and, if suspended, are equipped with fittings that prevent pressure from being transmitted to fittings and terminals.

#### *Factory Response and Current Status*

The factory provided photographs showing the installation of un-spliced suspended cords which did not appear subject to pressure on their terminals.

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<sup>51</sup> Law on Fire Prevention and Fire Fighting, Article 5; Law on Electricity, Article 57; 11 TCN 19-2006; Clause TCXD 394:2007, Articles 3.2 and 4.1; TCVN 9208:2012, Article 4.2.

## b. Electrical Panel Maintenance

### *Findings*

The WRC found that an alarm light (marked “ALARM”) had been triggered on one of the factory’s main electric panels, yet none of the personnel could explain the cause or how the factory was addressing this, indicating that legally required electrical maintenance was not being performed<sup>52</sup> (see Figures 27 and 28).

### *Recommendations*

The WRC recommends that the factory ensure that the electrical panels receive appropriate diagnosis and maintenance to ensure they are in safe working order.

### *Factory Response and Current Status*

The factory provided photographs showing that the alarm was no longer triggered and that a record of regular maintenance of the panel was being kept.

## c. Ungrounded Outlets

### *Findings*

The WRC found that numerous electrical outlets in the factory are ungrounded creating shock risks for employees that violate Vietnamese safety standards.<sup>53</sup> This hazard includes, but is not limited to, ungrounded outlets in the room that houses the factory’s fire pump room and an electrical outlet that was not protected by a ground fault circuit interrupter (GFCI), which could pose an electrical shock hazard in the event of a water leak from the fire pump’s pressurized piping (see Figures 29 and 30).



Figure 27: Main Electrical Panels



Figure 28: Electrical Panel with  
"ALARM" Warning Lit

<sup>52</sup> Law on Fire Prevention and Fire Fighting, Article 5; Law on Electricity, Article 57; 11 TCN 19-2006; Clause TCXD 394:2007, Articles 3.2 and 4.1; TCVN 9208:2012, Article 4.2.

<sup>53</sup> Law on Fire Prevention and Fire Fighting, Article 5; Law on Electricity, Article 57; 11 TCN 19-2006; Clause TCXD 394:2007, Articles 3.2 and 4.1; TCVN 9208:2012, Article 4.2.



Figures 29 and 30: Ungrounded Electrical Outlet in Fire Pump Room

#### *Recommendation*

The WRC recommends that the factory ensures that a qualified electrician properly grounds all outlets and installs GFCIs.

#### *Factory Response and Current Status*

The factory provided photographs showing the installation of covers on the ungrounded outlets but did not indicate that these outlets have been properly grounded and fitted with GFCIs. The WRC reiterates the recommendation that it do so.

### **d. Lack of Lockout Tagout Program**

#### *Findings*

From discussions with factory personnel concerning procedures for servicing electrically powered equipment, the WRC found that, in violation of Vietnamese safety standards,<sup>54</sup> the factory lacks a formal “Lockout Tagout” program to mechanically ensure and provide visual notice that equipment will be kept in a de-energized state from the time that the need for immediate maintenance is identified to when the equipment has been repaired and is returned to operation.

#### *Recommendations*

The WRC recommends that the factory formally adopt, provide training to employees on, and consistently implement a Lockout Tagout program.

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<sup>54</sup> Law on Fire Prevention and Fire Fighting, Article 5; Law on Electricity, Article 57; 11 TCN 19-2006; Clause TCXD 394:2007, Articles 3.2 and 4.1; TCVN 9208:2012, Article 4.2.

### *Factory Response and Current Status*

The factory stated that it would adopt a Lockout Tagout program.

## **5. Ergonomic Hazards**

### *Findings*

The WRC found several ergonomic hazards that violated Vietnamese safety standards,<sup>55</sup> by posing risks to employees of musculoskeletal injuries. First, sewing machine operators worked seated on backless wooden benches that lack any basic ergonomic features, such as back and lumbar support, padded seat pan, height adjustment, and swivel (see Figure 31). Moreover, employees who worked in a standing position on hard tile flooring were not provided with antifatigue floormats (see Figure 32). Finally, the heights of employees' worktables were not adjustable, causing some workers to resort to propping their tables up with bricks, which presents its own safety risks (see Figure 33).



Figure 31: Sewing Machine Operator Working Seated on Wooden Bench



Figure 32: Standing Work without Antifatigue Floormat

### *Recommendations*

The WRC recommends that the factory assess the ergonomic risk factors for all operations with prolonged standing or sitting and modify the work process to reduce the risks of musculoskeletal injury. The factory must also provide ergonomic chairs with a suitable backrest, seat, height adjustment, and swivel, as well as antifatigue floormats and height-adjustable workstations.

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<sup>55</sup> Labor Code, Articles 137, 138 and 148; Joint Circular 01/2011/TTLT-BLDTBXH-BYT.

### *Factory Response and Current Status*

The factory provided photographs showing the installation of proper bases to replace the bricks being used to prop up tables. However, the factory has not committed to replace the backless benches used by operators with ergonomic chairs or provide antifatigue floormats or height-adjustable workstations. The WRC reiterates the recommendation that it do so.

## **6. Respiratory Hazards and Temperature Levels**

### **a. Laser Cutting Machine**

#### *Findings*

The WRC found that, in violation of Vietnamese workplace safety law,<sup>56</sup> workers operating the factory's laser cutter are exposed to chemical vapors and particulates from the application of heat to fabric during the laser cutting process. Despite the use of a fan to improve ventilation in the area of the laser cutter and a local exhaust venting system attached to the equipment, a strong chemical odor was still noticeable around the work station. This respiratory exposure may be exacerbated by the factory's apparent practice of operating the laser cutter without lowering the unit's lid while the machinery is in operation, most likely for convenience and in order to maximize production speed (see Figure 34).

#### *Recommendations*

The WRC recommends that the company require that the lid of the laser cutter be lowered and closed at all times while the unit is in operation and to ensure that the wages of the employees operating the machine are maintained after this change is implemented.



Figure 33: Worktable Propped-Up on Bricks



Figure 34: Laser Cutter Operated by Worker with Lid in Raised Position

<sup>56</sup> Labour Code, Article 138; OSH Law, Article 17.

### *Factory Response and Current Status*

The factory stated that the lid of the laser cutter would be kept closed at all times while the unit is in operation and that the workers operating it would be issued N95 masks.

### **b. Evaporative Cooling System**

#### *Findings*

Both the WRC's October 14 inspection of Dong Thanh and the most recent survey of the factory by local health authorities that Dong Thanh had on file, which was conducted in November 2018, found that temperatures in the factory at those times were below the applicable legal maximum of 32°C (89.6°F).<sup>57</sup> However, October and November are among the cooler months of the year, so it is unclear whether the factory complies with this limit during hotter months.

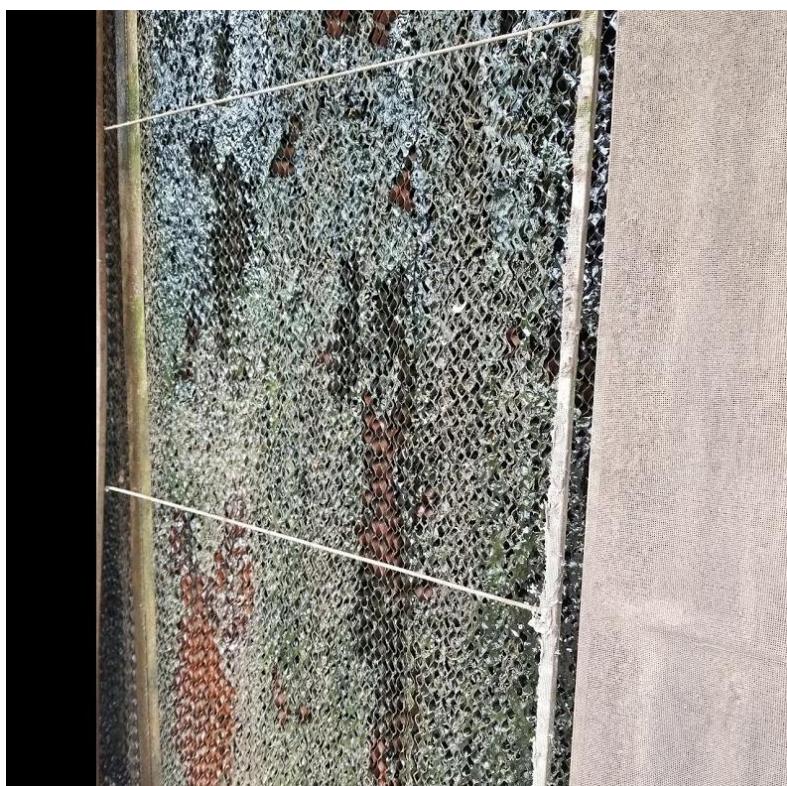


Figure 35: Biological Growth on Cooling Pad System

Although the factory is equipped with an evaporative cooling system, these systems are of limited effectiveness in humid climates like that of Vietnam, because they lower temperatures by increasing relative humidity, thereby failing to improve comfort levels in climates where humidity is already elevated.

Moreover, the WRC observed that the factory was failing to properly maintain the evaporative cooling system which, itself, created possible health risks for employees. Specifically, the evaporative cooler had a significant visible biological growth on its surface creating a risk of airborne transmission of microbial contaminants that could cause potentially serious respiratory illness, thereby violating basic workplace health standards<sup>58</sup> (see Figure 35).

#### *Recommendations*

The WRC recommends that the company maintain and/or replace the evaporative cooling pads to prevent microbial contamination. Moreover, the factory should measure indoor temperatures

<sup>57</sup> Labour Code, Article 138; OSH Law, Article 16; Decision 3733/2002/QD-BYT, Section 7.

<sup>58</sup> Labor Code, Article 5 (1)(b), Ministry of Health, Labour Hygiene Standards (Oct. 10, 2012).

at the facility in the hotter summer months to ensure that they are below the legal maximum and, if not, should install additional engineering controls to lower them.

#### *Factory Response and Current Status*

The factory provided photographs showing that the evaporative cooling pads had been cleaned and stated that such cleaning would be conducted on a weekly basis going forward. The factory agreed to keep a record of temperatures during the summer months in order to ensure that heat levels do not exceed legal maximums.

### **7. Crushing and Pinching Hazards**

#### **a. Evaporative Cooling Pad System Sump Cover**

##### *Findings*

The WRC found that the sump for the factory's evaporative cooling pad system was covered with a large, heavy concrete slab that appears to be usually left open, propped against the side of the cooling pad housing (see Figure 36). The weight of the slab and the precariousness of this positioning (along with the fact that, due to the hot climate and/or their low wages, many employees wear minimally protective footwear) create a risk of a serious crushing injury should the covering fall on a worker's hand or foot, which violates Vietnamese safety standards<sup>59</sup> (see Figure 37).



Figure 36: Heavy Concrete Cover for Evaporative Cooling System Sump



Figure 37: Employee in Sandals Lifting Heavy Concrete Cover

<sup>59</sup> Law No. 84/2015/QH13, Articles 7, 15, 72, 73 and 74; TCVN 6713:2013, Article 5.2; Decree No.85/2015/NĐ-CP, Article 7.4; Law No. 84/2015/QH13, Article 7.

### *Recommendations*

The WRC recommends that the company replace the heavy concrete slab cover with a lighter covering of aluminum or plastic that is equipped with handles for easier accessibility.

### *Factory Response and Current Status*

The company provided a photograph showing that the heavy concrete cover had been replaced with a lighter one made of wood.

## **b. Exit Doors**

### *Findings*

The WRC found that, due to the factory's ventilation system, each of the facility's exit doors is under substantial negative pressure which causes it, when closing, to occasionally do so with enough force to pinch or crush fingers if they were caught in the door, creating a hazard which violates Vietnamese safety standards.<sup>60</sup> This effect is especially pronounced because the doors are not equipped with hydraulic devices to prevent them from slamming shut.

### *Recommendation*

The WRC recommends that the exit doors be equipped with hydraulic devices to prevent them from slamming shut and crushing or pinching employees' fingers.

### *Factory Response and Current Status*

The factory posted signs on the exit doors warning of the risk of injury but did not commit to install hydraulic devices to prevent their slamming shut. The WR reiterates the recommendation that the factory install such devices.

## **8. Toilets**

### *Findings*

The WRC found that the men's restrooms lacked toilet paper, in violation of Vietnamese workplace laws and regulations.<sup>61</sup>

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<sup>60</sup> Law No. 84/2015/QH13, Articles 7, 15, 72, 73, and 74; TCVN 6713:2013, Article 5.2; Decree No.85/2015/NĐ-CP, Article 7.4; Law No. 84/2015/QH13, Article 7.

<sup>61</sup> Labour Code, Article; OSH Law, Article 16; Decision 3733/2002/QD-BYT, Section I (4).

### Recommendation

The WRC recommends that the company ensure that all toilet facilities are consistently supplied with toilet paper.

### Factory Response and Current Status

The factory committed to have the restrooms checked every two hours during the workday to ensure that sufficient toilet paper has been supplied.

## 9. Noise Hazards

### Findings

The WRC found that certain workstations in the factory which were located close to a ventilation fan, but were not being used on the day of the WRC's inspection, had noise levels that were measured in excess of 85 decibels, indicating a risk to the hearing of employees who might be assigned to work in these areas, and a violation of workplace safety standards<sup>62</sup> (see Figure 38).

### Recommendations

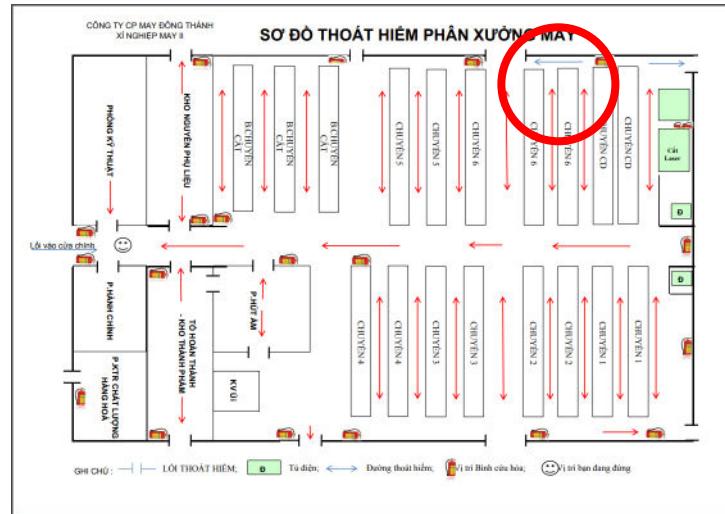
Should the company assign employees to work in areas of the factory located close to a ventilation fan, it should conduct a noise survey to determine if engineering measures should be taken or PPE issued to protect workers from excessive noise volumes.

### Factory Response and Current Status

The factory stated that the excessive noise levels were caused by a failure to lubricate the ventilation fan. The factory indicated that it would lubricate the fan, which should reduce the noise level to ameliorate the risk to workers' hearing. The WRC notes this measure but recommends that the factory conduct a noise survey to determine if additional measures are necessary.

## IV. Other Issues of Concern

The WRC also identified two other areas where specific practices of the factory, while not in violation of Vietnamese law, the City's Ordinance, nor the code of conduct of Dong Thanh's buyer and Banner's supplier, 5.11 Tactical, nevertheless, are inconsistent with prevailing standards of good business practice. The WRC's findings and recommendations concerning these issues—which involve workers' dissatisfaction with the meals provided to employees at



the factory's cafeteria and the factory's failure to issue employees pay statements along with their wages—while they do not implicate legally or contractually binding obligations on the part of the factory, 5.11 Tactical, or Banner, are presented below so that they are brought to the attention of and can be addressed by these parties.

### **A. Quality and Quantity of Food Provided to Workers in Factory Canteen**

#### *Finding*

Nearly all workers who were interviewed by the WRC stated that the food provided to them in the factory's canteen is often poor in quality and served in overly small portions. Due to time limitations during the WRC's inspection of the factory, the WRC did not conduct an in-depth safety assessment of conditions in the canteen and, during a brief walkthrough, did not observe any obvious failure to meet legal hygiene standards.<sup>63</sup>

It is clear, however, that the amounts and quality of the food served to employees in the canteen is a cause of widespread dissatisfaction among workers. Employees testified that the portions of food they were served often were so small that they brought food from home to supplement the canteen meals, so that they were not still hungry after eating. Workers added that the prices they believed Dong Thanh paid to its vendor for food for the canteen—reportedly between VND 8,000 (US\$0.35) and 10,000 (US\$0.44) per employee meal—was low compared to those paid by other factories for food for their workers.

The WRC found evidence to support the worker's concerns, noting that in January 2019, the regional body of the Vietnamese General Confederation of Labour in Ho Chi Minh City reached agreement with six garment factories in that area for the latter to pay VND 17,000 (US\$0.75) per employee meal for the food that those factories provide to their workers.<sup>64</sup> Although consumer prices are higher in Ho Chi Minh City than in Quảng Ngãi, where Dong Thanh is located, adjusting the VND 17,000 per employee meal price that the Ho Chi Minh factories reportedly agreed to pay for the difference in consumer prices between the two areas yields an equivalent price for factories in Quảng Ngãi of VND 15,275 (US\$0.67) per employee meal<sup>65</sup>—roughly 50-90 percent higher than the amount Dong Thanh reportedly pays at present.

While the payment of substandard prices—and provision of substandard meals—in relation to the food served in the factory's canteen does not constitute a violation of Vietnamese law or the City's Ordinance, it is arguably inconsistent with the general principle expressed in the code of

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<sup>63</sup> Labor Code, Articles 138 and 147; Law No: 55/2010/QH12, Articles 10, 11, and 12; Circulars Nos.: 15/2012/TTBYT, Articles 5 and 6; 30/2012/TT-BYT.

<sup>64</sup> Vietnam General Confederation, Institute for Workers and Trade Union, Newsletter, "Multi-employer Social Dialogue in Linh Trung Export - Processing Zone, Ho Chi Minh City," Trade Union Reform for Workers' Rights and Interests Newsletter No.3 Quarter IV/ 2018, [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms\\_667554.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_667554.pdf).

<sup>65</sup> The relative cost of living index in 2018 in Ho Chi Minh City was 101.47, while in Quảng Ngãi, the cost of living index was 91.18. General Statistics Office of Vietnam, "Table 270: Spatial cost of living index among provinces (Hà Nội = 100)," Price Index, [https://gsoweb.gso.gov.vn/Modules/Doc\\_Download.aspx?DocID=24520](https://gsoweb.gso.gov.vn/Modules/Doc_Download.aspx?DocID=24520). Accordingly, an item costing VND 17,000 in Ho Chi Minh City would cost in Quảng Ngãi  $17,000 \times 91.18/101.47 = \text{VND } 15,275$  (US\$0.67).

conduct of Dong Thanh's buyer, 5.11 Tactical, that workers' pay should be consistent with not only legal minimum requirements but also prevailing industry standards.<sup>66</sup> Since, given their low wages, Vietnamese workers rightly consider the midday meals provided by their employers to be a significant part of their overall compensation, the concerns expressed by the Dong Thanh employees regarding the amount and quality of food they are given at the factory's canteen appear legitimate and well-placed.

#### *Recommendation*

The WRC recommends that Dong Thanh increase the price it pays to the factories' canteen vendor for workers' meals to be in line with prevailing industry standards of good practice, which, in this case, would be roughly VND 15,275 (US\$0.67) per employee meal.

#### *Factory Response and Current Status*

The factory stated its belief that the amount it paid for food for workers' meals was equivalent to that paid by neighboring factories, but agreed to increase the amount it pays per meal on a daily basis, generally, to VND 10,000 – 12,000 (US\$0.43 – 0.51) and the amount it pays on Wednesdays, specifically, to VND 15,000 (US\$0.66). The WRC recommends, consistent with the discussion above, that the factory pay the latter amount for the meals on all days of the week.

### **B. Employee Pay Statements**

#### *Finding*

As noted earlier in this report, Dong Thanh does not provide its workers with a pay statement at the time they are paid their wages. Although neither Vietnamese law, the City's Ordinance, nor 5.11 Tactical's code of conduct explicitly require that employers issue workers pay statements at the time the latter receive their wages, the labor law does require that such wages are paid in full and in a timely manner.<sup>67</sup>

Without a pay statement that provides the figure upon which the wages the employee is being paid have been calculated—i.e., the numbers of regular hours and overtime hours that have been worked, as well as the number of hours of employer-paid time off (for holidays, etc.) that have been taken and/or paid, the applicable rates of pay for all of these hours, the amounts of bonuses earned for good attendance and fulfilling production targets, and the additional allowances included in and the deductions made from the worker's pay—it is difficult for employees to determine whether the company is complying with its legal obligation to pay workers their wages in full and on time. For this reason, provision to workers of a statement explaining the calculation of their wages at the time these wages are paid is a basic element of responsible

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<sup>66</sup> 5.11 Tactical, Vendor Code of Conduct, <https://www.511tactical.com/vendor-code-of-conduct>.

<sup>67</sup> Labor Code, Article 96 ("An employee shall be fully paid on time as agreed and direct manner.").

business practice and is mandatory under the laws of many other jurisdictions<sup>68</sup> and the codes of conduct of many other brands.<sup>69</sup>

#### *Recommendation*

The WRC recommends that Dong Thanh provide employees, at the time their wages are paid, with a written pay statement that provides the figures upon which the wages the employee is being paid have been calculated—i.e., the numbers of regular hours and overtime hours that have been worked, as well as the number of hours of employer-paid time off (for holidays, etc.) that have been taken and/or paid, the applicable rates of pay for all of these hours, the amounts of bonuses earned for good attendance and fulfilling production targets, and the additional allowances included in and the deductions made from the worker’s pay.

#### *Factory Response and Current Status*

As discussed earlier in this report, the factory agreed to provide workers with written pay statements at the time they receive their wages.

#### **V. Conclusion**

Although Dong Thanh has taken steps to remedy many of the violations the WRC has identified, others are still outstanding. These outstanding violations, however, are amenable to remediation and correction by 5.11 Tactical, with the assistance and involvement of its contractor, Banner Uniform Center. This process should have as its immediate goal the establishment of a corrective action plan that is consistent with the recommendations in this report and agreed upon by all parties, including the City and County of San Francisco, with time-bound commitments for its implementation. The WRC asks that 5.11 Tactical provide a response to this report by July 20, 2020.

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<sup>68</sup> E.g., Cambodian Labour Code, Article 112(b) (“The employer must take measures to inform the workers in a precise and easily comprehensible fashion of: ... [t]he items that make up their wage for every pay period when there is a change to the items.”)

<sup>69</sup> E.g., Gap, Inc., Vendor Code of Conduct (“The facility shall ensure that for each pay period, workers are provided understandable wage statements that includes all relevant details written in a language they understand.”), [https://www.gapinc.com/content/dam/gapincsite/documents/CodeofVendorConduct\\_FINAL.pdf](https://www.gapinc.com/content/dam/gapincsite/documents/CodeofVendorConduct_FINAL.pdf).