

To:

Mr. Wim van der Leeuw  
Ministry of Economic Affairs  
Netherlands National Contact Point for the OECD Guidelines  
P.O. Box 20101  
2500 EC The Hague,  
The Netherlands

Amsterdam, 11 October 2006.

Dear Mr. van der Leeuw,

We are contacting you in your capacity as the Coordinator of the Dutch National Contact Point of the OECD Guidelines for Multinational Enterprises.

The *Schone Kleren Kampagne*, (Dutch Clean Clothes Campaign, hereafter SKK) and the *Landelijke India Werkgroep* (India Committee of the Netherlands, hereafter LIW) are submitting the following report concerning the Dutch garment company G-Star International B.V. (hereafter G-Star).

SKK and LIW are of the opinion that G-Star has violated the OECD Guidelines for Multinational Enterprises in its business relations with its Indian suppliers Fibre & Fabrics International Pvt. Ltd. (hereafter FFI) and Jeans Knit Pvt. Ltd (hereafter JKPL).

SKK and LIW are supporting Indian organisations involved in the struggle for workers' rights workers in the Bangalore garment industry in general, and for workers of FFI and JKPL in particular. It is in this capacity that the SKK/LIW are contacting the Dutch National Contact Point. These organisations are the *Garment and Textile Workers Union (GATWU)*, *Civil initiatives in development and peace (Cividep)*, and the *Women Garment Workers' Front ('Munnade')*. These organisations are not currently in a position to bring the case up themselves due to a restraining order imposed on them. FFI/JKPL has obtained a court order (reference: O.S. 16338/2006) against GATWU, Munnade and Cividep as well as other NGOs and trade unions, which prevents these organisations from sharing information about the labour situation at FFI and JKPL with organisations in India and abroad.

Furthermore, FFI has applied for contempt of court proceedings against these organisations.

❖ **Schone Kleren Kampagne / Clean Clothes Campaign (SKK)** is an organisation that aims to improve working conditions and support the empowerment of workers in the global garment and sports shoe industry. According to the CCC all workers are entitled to have good and safe working conditions, where they can exercise their fundamental rights to collective bargaining, freedom of association, and to earn a living wage.  
[www.schonekleren.nl](http://www.schonekleren.nl)

❖ **Landelijke India Werkgroep / India Committee of the Netherlands (LIW)** is an independent non-governmental organisation, supporting deprived groups in Indian society. The LIW works together with the Clean Clothes Campaign and Indian trade unions and NGOs to raise awareness of the harsh working conditions in the garment and sport shoes industry in India. In this context LIW promotes corporate social responsibility and responsible business behaviour. [www.indianet.nl](http://www.indianet.nl)

- ❖ **Garment and Textile Workers' Union (GATWU)** is a trade union for garment workers in Bangalore. The garment sector in India is known for the absence of trade unions and collectively bargained agreements between workers and factory management. GATWU represents the interests of garment workers in factories in Bangalore. The union is affiliated to the New Trade Union Initiative (NTUI), an Indian federation of independent unions.
- ❖ **Civil initiatives in development and peace (Cividep)** is a civil society organisation based in Bangalore, India. Cividep is helping workers to organise, researches the impact of corporate activities on communities and the environment and is involved in joint campaigns with other organisations and individuals to promote workers' rights and corporate accountability.
- ❖ **Women Garment Workers' Front ('Munnade')** is an membership-organisation of women workers in the garment industry in Bangalore. 'Munnade' means to 'move forward' in Kannada (local language). 'Munnade' aims at building social solidarity among women workers and at creating an atmosphere in which workers organisations like trade unions can evolve. 'Munnade' works closely with other civil society organisations promoting workers', women's and human rights.
- ❖ G-Star International B.V. is a Dutch garment company with its headquarters in Amsterdam, the Netherlands. The brand G-Star was founded in 1989 as part of the Dutch garment company Secon Group. In April 2003, G-Star International became an independent company as a result of a management buy-out. The director, Mr. Jos van Tilburg, created a new holding company, Jill Holding B.V. which bought all G-Star shares from the Secon Group. Jill Holding has tens of foreign daughter companies responsible for the marketing of G-Star clothing in 45 countries worldwide.
- ❖ Fibre&Fabrics International Pvt. Ltd. (FFI) is a private garment manufacturing company in India, Bangalore. Jeans Knit Pvt. Ltd. (JKPL) is a 100% subsidiary of FFI. FFI and JKPL operate 5 working units in Bangalore, India.

As a signatory to the OECD Guidelines, the Dutch Government has committed itself to encourage multinational companies to observe the Guidelines wherever they operate. G-Star is subject to the OECD Guidelines by virtue of the fact that the headquarters of the enterprise are based in Amsterdam, The Netherlands.

SKK and LIW are of the opinion that the OECD Guidelines apply to G-Star, its supply chain and its Indian suppliers. SKK and LIW insist there is a clear 'investment-like' relationship between G-Star and its Indian suppliers FFI and JKPL. Information provided by G-Star supports this position.

- ❖ About 60-70% of the production of FFI/JKPL is destined for G-Star<sup>1</sup>
- ❖ About 50% of the bulk production of G-Star is produced in India by FFI<sup>2</sup>
- ❖ FFI has been supplying to G-Star since 1999, so the length of the relationship between G-Star and FFI is 7 years<sup>3</sup>
- ❖ G-Star acknowledges its important position vis-à-vis FFI/JKPL: "G-Star is an important buyer at FFI/JKPL, and as such an important party in this matter."<sup>4</sup>

There is a direct and well established relationship between G-Star and its Indian suppliers; FFI/JKPL fabricate the products that are sold by G-Star. G-Star bears responsibility for the FFI/JKPL workers. G-Star's buying power vis-à-vis FFI/JKPL allows the company to exercise decisive influence over its suppliers' compliance to labour standards.

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<sup>1</sup> Meeting between SKK, LIW and G-Star, December 6, 2005

<sup>2</sup> ibid

<sup>3</sup> Meeting between SKK, LIW and G-Star, June 2, 2006

<sup>4</sup> Letter from G-Star lawyer M.R. de Zwaan, Jun 20, 2006 to the SKK. See annex 33

## I. Background to this report

SKK and LIW first contacted G-Star after disturbing information about appalling labour conditions in the production units of G-Star's suppliers FFI and JKPL was uncovered by labour rights organisations in Bangalore. Workers' testimonies collected by the local trade union GATWU speak of wide ranging violations of workers' rights and human rights in the production units of FFI and JKPL over an extended period of time in 2005 and 2006<sup>5</sup>. The reported violations include:

Freedom of association:

- There are no trade unions or any other kind of workers' organisations active in the production units of FFI;
- There is a general lack of awareness about the right to organise, and indeed a reluctance to associate with trade unions for fear of dismissal;
- Workers do not have direct access to the management, but rely on production managers and supervisors.

Right to collective bargaining:

- There is no collective bargaining agreement in the FFI production units;
- Wages differ from individual to individual, on the basis of unspecified criteria.

Payment of a living wage:

- Wages are generally marginally higher than the stipulated minimum wages, but still do not suffice to cover basic needs;
- In some cases, it is not clear if social security contributions are deducted from the worker's wages as legally required;
- Workers are generally unaware on what basis their wages are calculated.

Discrimination in employment:

- Gender discrimination is an issue: male workers are paid more than female workers for the same type and same amount of work (this only applies to the production units where both men and women work).

Working hours:

- Not all production units have public announcements concerning the working hours;
- Generally, workers are required to meet production targets which can not always be achieved even when working non-stop for eight hours. This can result in up to 2-4 hours overtime work per day. However, these hours are not counted as overtime.

Overtime work:

- Workers are structurally forced to work overtime, even sometimes on holidays;
- Workers have no possibility to refuse overtime work. Negotiation never takes place before overtime work is imposed;
- Overtime hours are improperly recorded to the disadvantage of workers. Often overtime payments are shown on the payslip as 'production incentives';
- Workers are not paid the double rate, legally required for overtime work. If overtime hours are paid at all, then often only at a single hour rate;
- Workers can not take their legal holiday entitlement.

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<sup>5</sup> Workers' interviews report – Fibre & Fabrics International Pvt. Ltd., Sept 12, 2005 (GATWU). See annex 43; Workers' interviews report – Jeans Knit Private Limited, November 19-22, 2005 (GATWU). See annex 44; Workers' interviews report – Fibre & Fabrics International Pvt. Ltd., November 19-22, 2005 (GATWU). See annex 45; Consolidated report on violations of labour rights and human rights in Fibre & Fabrics International Pvt. Ltd., March 30, 2006 (GATWU). See annex 46; Fact finding report of violation of the rights of workers at washing unit of Fibre & Fabrics International Pvt. Ltd., August 28, 2006 (Fact Finding Committee). See annex 74.

Occupational health and safety:

- Physical complaints include: watering eyes, frequent headaches, exhaustion, back pain;
- In the washing unit, workers inhale fumes from acids and dyes;
- In other units, workers complain of accumulated cloth dust;
- The chairs lack back rests;
- Workers are generally unaware of the presence of fire extinguishers or first aid kits;
- No workers have been trained in first aid;
- Workers are never consulted in a organised manner on OHS matters;
- On the positive side: gloves and masks are distributed by the management.

Punishment, abuse, harassment:

- Workers are abused and sometimes thrown out of the factory, especially in cases of unpermitted absenteeism;
- Production managers and supervisors frequently use abusive language against workers, including women workers;
- Workers have been physically assaulted by supervisors and production managers, for example in cases where the workers protested against the verbal abuse by the supervisors. Workers report of having been beaten with wooden sticks, as a disciplinary measure for not achieving production targets;
- In one of the production units there is said to be a 'sexual harassment committee', but this has never been functional.

Legally binding employment relations:

- Workers do not have written contracts. Neither appointment letters nor identity cards are issued. As a result, workers can be turned out of employment at the will of the management;
- Workers are generally not given notice or warning before termination of their employment<sup>6</sup>.

These reports are confirmed by an independent fact finding committee<sup>7</sup>. The reports of workers' interviews, the report of the fact finding committee as well as incidents reported by FFI/JKPL workers through personal contacts with GATWU and other labour rights organisations reveal an atmosphere of fear among FFI/JKPL workers. The reported human and labour rights violations are structural and systemic. Workers have no way to voice their concerns or defend their rights and interests without fear of reprisal. There is no effective and reliable grievance mechanism for workers to report non-compliance issues. The FFI/JKPL management does not respect freedom of association - it is not possible for workers to come together in an organised way.

*Contact between SKK/LIW and G-Star*

SKK and LIW deem that, as a major buyer at FFI/JKPL, G-Star has a responsibility to ensure good labour conditions in its supply chain and should play a role in taking its suppliers through this process. On October 28, 2005, SKK and LIW sent a first letter to G-Star, inquiring about G-Star's CSR policy and extending an invitation for a meeting. The first meeting between SKK/LIW and G-Star consequently took place on 6 December 2005. In this meeting, the reported violations at FFI/JKPL were discussed. The December meeting was the beginning of an intensive exchange of information between the parties involved (see annexed 'Timeline').

The SKK and LIW acted in good faith by first informing G-Star of the reported labour rights violations and proposing a dialogue process, before making the case public. SKK and LIW urged G-Star to act and use its leverage to bring about a dialogue between FFI and local

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<sup>6</sup> This overview of violations was made by SKK/LIW and shared with G-Star on 11 January 2005. See annex 12.

<sup>7</sup> See annex 74.

stakeholders in order to address the reported problems<sup>8</sup>. G-Star claimed to take the allegations seriously, but failed to act. The exchange of information between SKK/LIW and G-Star halted as a result of G-Star's uncooperative silence from March 2006 onwards.

For almost three months, G-Star did not respond to a number of letters sent by SKK/LIW.

In the meantime, additional interviews with workers carried out by GATWU did not show any improvements in the labour and human rights situation at the FFI/JKPL production units. On the contrary, new and disturbing information came out<sup>9</sup>. This new information was shared by with G-Star. SKK/LIW once more urged G-Star to take steps to improve the labour rights situation at FFI/JKPL and particularly to use its leverage as a buyer to bring about a dialogue between FFI/JKPL and local stakeholders<sup>10</sup>.

Finally, end of May 2006, frustrated by the lack of progress and the unwillingness of G-Star to take action, SKK/LIW decided to go public with the reported labour rights violations by issuing a 'protest letter'. SKK and LIW now called publicly on G-Star to take action and encouraged concerned consumers to do the same.

It was only after SKK and LIW went public that G-Star contacted the SKK/LIW. Subsequently, on 2 June 2006, a second meeting took place between SKK/LIW and G-Star, which was also attended by Mr Manfred Gruyters, member of the FFI/JKPL board. Under pressure of SKK/LIW and G-Star, Mr Gruyters consented to a meeting between FFI/JKPL and GATWU. This meeting took place shortly after, on 9 June 2006, in Bangalore. Immediately after this meeting, in a letter to SKK and LIW, G-Star bluntly decided that the Bangalore labour rights organisations did not take the matter seriously<sup>11</sup>.

Since then, G-Star has spent considerable time and resources questioning the validity of the labour rights violations reported by the Indian labour rights organisations. G-Star hired a lawyer who took over the dialogue with the SKK/LIW.

In July 2006, a G-Star delegation including its lawyer visited Bangalore. The delegation met with FFI/JKPL management, local lawyers and authorities, but failed to get in touch with GATWU or labour rights organisations that could have informed them directly about the reported problems at FFI/JKPL.

Shortly after the visit of G-Star to Bangalore, on 28 July 2006, Indian NGOs and trade unions were confronted with a restraining order applied for by FFI/JKPL. The restraining order was issued prima facie, without hearing the defendants, by the City Civil Court of Bangalore. This restraining order prevents the defendants from circulating information about the labour situation in the FFI and JKPL production units to organisations in India and abroad.

The International Secretariat of the Clean Clothes Campaign made the issuing of the restraining order the topic of an international, English language 'urgent appeal', under the heading 'Gag Order Placed on Indian Labour Support Organisations' (16 August 2006). Garment Companies in Bangalore, India, FFI/JKPL, seek to Prevent Exchange of Information.'

At the end of August 2006, FFI/JKPL filed proceedings for contempt of court, in an apparent attempt to further thwart the work of Indian labour rights organisations and SKK and LIW. The hearing of the restraining order is now scheduled for 12<sup>th</sup> October 2006, after a number of postponements. Only then the defendants, GATWU and the other organisations involved, will have an opportunity to respond to the allegations of slander made by FFI/JKPL.

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8 E-mail dated 11 January 2006 with annexed Summary of reported violations of workers' rights at production units of FFI, sent to G-Star. See annex 12.

9 See annex 20.

10 See annex 21.

11 See annex 27.

### *Contact between local stakeholders and FFI/JKPL*

In an effort to start a dialogue with FFI/JKPL management, GATWU has written two letters, respectively dated 11 February and 25 March 2006<sup>12</sup>. GATWU proposed that a meeting would be held between FFI/JKPL and GATWU to discuss the reported violations and to look for ways to rectify the problems in an open and transparent manner. These letters as well as the invitation went unanswered.

Workers from the FFI/JKPL washing unit have asked GATWU for help, since they were being severely ill-treated by supervisors and unit-management. As GATWU's attempts to meet the management were unsuccessful, GATWU then requested local human rights organisations and social activists to conduct a fact-finding mission to look into the reported violations. Representatives of a number of social, human rights and women's rights organisations and social activists formed a committee and subsequently undertook a fact finding mission on 23 April 2006. In the context of this fact finding mission, the committee spoke with workers of the FFI washing unit (other workers than those who had previously been met by GATWU).

There are different accounts of the 9 June meeting between FFI/JKPL and GATWU and NTUI<sup>13</sup>. In all events, it was agreed that the FFI/JKPL legal advisor would get together with workers and GATWU in an off-site meeting to hear first-hand about the working conditions at FFI/JKPL. Although the date and time for this meeting were agreed upon, the factory legal advisor refused to attend the meeting. So, FFI/JKPL failed to take this to begin to address the issues at hand.

The fact finding committee has drafted a concept report containing findings and conclusions. It wasn't until the 3<sup>rd</sup> July 2006 that the fact finding committee had the chance to present the draft report to FFI/JKPL management, despite attempts to meet with the management earlier.

On 30 July 2006, the fact finding committee had a second meeting with a group of FFI/JKPL workers, to see whether any changes had occurred. The final report of the fact finding committee, issued on 24 August<sup>14</sup> honestly reflects these changes.

### *G-Star's response has not ensured progress*

The FFI/JKPL management has brought about some positive changes, apparently listening to local and international pressure. The fact finding committee as well as other Bangalore labour rights organisations report that, amongst others, the discontinuation of unpaid overtime work, the (re-) issuing of appointment letters, improved bus transport for workers, a reduction of overtime work, an end to physical and verbal abuse and the opening of a canteen in the finishing unit. However, the report also mentions that safety measures taken are insufficient and punitive transfers of outspoken workers are continuing<sup>15</sup>. The positive changes made by FFI/JKPL are welcomed, but they do not constitute the systemic changes needed, nor do they effectively address the root causes of the reported violations. According to the fact finding committee, FFI/JKPL management is still guided by its distrust and disrespect for its own workers and their representative organisations.

A major obstacle is the refusal of the FFI/JKPL management to constructively engage with GATWU and/or other local labour rights organisations. FFI/JKPL do not acknowledge the role of civil society organisations in maintaining labour standards. In fact, FFI/JKPL deny workers

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<sup>12</sup> See annex 17 and 19.

<sup>13</sup> Minutes of 9 June 2006 meeting by GATWU. See annex 28. Minutes of 9 June 2006 meeting by FFI/JKPL. See annex 29.

<sup>14</sup> See annex 74.

<sup>15</sup> The fact finding report reports that 'There have been some punishment transfers of people who raise questions, to brushing work. This is difficult work and people do not like to work here because one has to work with harmful chemicals and if done with bare hands, the skin gets affected.', see Annex 74.

the right to organise. The restraining order and the contempt of court proceedings initiated by FFI/JKPL clearly demonstrate this.

G-Star has thus far not succeeded in developing an effective remediation strategy for FFI/JKPL, involving local stakeholders. It is the brand's responsibility to ensure that its products are manufactured under good conditions and to develop systems to make sure violations of labour standards do not happen, now or in the future. Instead, G-Star questioned the validity of the violations reported by the workers<sup>16</sup> and has blamed the organisations involved of causing and exacerbating conflict.

To create an environment in which dialogue is possible and where solutions can be found together, the removal of the restraining order is a must. Therefore, removal of the restraining order must be a prerequisite for further dialogue. G-Star, however, has not made any attempt to push FFI/JKPL to withdraw the court order. On the contrary, G-Star insists that this is a local conflict to be resolved locally between the parties concerned. Worse, G-Star accuses SKK/LIW of being responsible for the issuing of the restraining order<sup>17</sup>.

SKK and LIW have decided to put off dialogue with G-Star as long as the restraining order is in force. This position has a principled basis: freedom of association and freedom of speech are internationally guaranteed rights, which are being disregarded by both FFI/JKPL and G-Star. Practically, SKK and LIW are now cut off from their normal sources of information and are as a result unable to report about the reality on the ground.

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16 Letters by Marcel de Zwaan speaking of false allegations made by SKK and LIW. See annexes 33, 35, 49, 55, 64 and 70, and G-Star's position paper of 18 September 2006. See annex 81

17 Letter by G-Star to consumers, August and September 2006. See annex 82

## II. Breaches to the Guidelines

The reported violations described in the above 'background to this report' constitute a number of breaches of chapters and paragraphs of the OECD Guidelines. We believe G-Star, as a major buyer of FFI/JKPL has a responsibility to ensure that labour and human rights at FFI/JKPL production units are in compliance with the OECD Guidelines.

### **Chapter I, Paragraph 7 & 8**

***Multinational enterprises should act subject to international laws and law applicable in the country where their activities take place:***

India has signed the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1979. The reported violations of worker's and human rights breach the following articles of the ICESCR;

- article 7 on the right of everyone to the enjoyment of just and favourable conditions of work (including fair wages and equal remuneration, safe and healthy working conditions, and reasonable working hours)
- article 8 on the right of everyone to form trade unions and join the trade union of his choice
- article 12 on the rights to the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

India has ratified 39 ILO Conventions. From the reported violations it can be concluded that the following ILO Conventions are not being observed:

- no. 1; Hours of work (industry) Convention, 1919
- no 14; Weekly rest (industry) Convention, 1921
- no 111; Discrimination Convention, 1958

The final report of the fact finding committee outlines to what extent these violations constitute violations of Domestic Law (Indian Penal Code) as well as Indian labour laws (Industrial Disputes Act, Industrial Employment Standing Order Act, Karnataka Factories Rules, Factories Act).

Even though the reported violations constitute violations of the Indian labour laws and the Indian Penal Code, generally workers have not complained to the labour department or taken cases to the labour courts for a number of reasons, including fear of reprisal by the company, as well as lack of time, resources and knowledge to properly prepare such case. One case was filed with the labour court and labour department for non-payment of gratuity, non-payment of overtime wage dues and non-refund of security deposit. A worker at FFI/JKPL filed a complaint in the labour court for recovery of his entitled security deposit and payments of overtime dues. He has since withdrawn his case from court. The company hastily settled this matter out-of-court with the worker, after local organisations took action.<sup>18</sup> This case was settled only after he left employment and only after local organisations took action.

SGS, a commercial audit firm hired by G-Star, has also reported on violations of local labour law, such as the occurrence of overtime<sup>19</sup>.

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18 Thippeswamy legal court case n5 June2006. See annex 82 Thippeswamy - withdrawal court case 15 July 2006. See annex 83.

19 'Rechter legt critici G-Star het zwijgen op', Trouw, 22 Augustus 2006. 'Position paper', published by G-Star, 18 September 2006. See annex 81.



## **Chapter II, Paragraph 2**

### ***Multinational enterprises should respect human rights of those affected by their activities***

The earlier mentioned documents received by SKK/LIW from local labour rights organisations list serious human rights violations related to punishment, abuse, harassment and freedom of association, including:

- Workers are abused and sometimes thrown out of the factory, especially in cases of unpermitted absenteeism;
- Production managers and supervisors frequently use abusive language against workers, including women workers;
- Workers have been physically assaulted by supervisors and production managers, for example in cases where the workers protested against the verbal abuse by the supervisors.
- Workers report of having been beaten with wooden sticks, as a disciplinary measure for not achieving production targets and for 'disobedience'.
- In one of the production units there is said to be a 'sexual harassment committee', but this has never been functional.
- There are reported cases of workers who were stripped naked, beaten up and shouted at - in the presence of other workers in order to intimidate the whole group.
- Reportedly, workers on their way home after night shifts have been beaten up outside the factory by paid thugs.

Audits commissioned by G-Star as well as by other brands sourcing from FFI/JKPL, have confirmed these non-compliances, even though they failed to involve local organisations. Ann Taylor, an US based garment brand, responded on 23 August 2006 to a letter from the Clean Clothes Campaign international Secretariat saying they were 'extremely disturbed to learn about the severe non-compliance findings identified by your organization. Upon receiving your letter last week, we immediately sent third party monitors to aggressively investigate the allegations by conducting unannounced facility visits and performing both on-site and off-site worker interviews of these locations. We have validated several non-compliance issues cited in your reports and are taking immediate actions in response.'<sup>20</sup> In a telephone conversation on 30 August 2006, Ann Taylor informed the CCC that the audit confirmed abusive conditions in the factory including concerns of the possibility of physical and verbal harassment. This was confirmed in an e-mail<sup>21</sup>. In a telephone conversation with SKK, on 14 August 2006, the Dutch garment company Mexx also confirmed non-compliances with labour standards at the FFI/JKPL production units.

## **Chapter II, Paragraph 7**

### ***Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate***

After a period of silence (March – May 2006), and after SKK and LIW going public (late May 2006), G-star has spent considerable time and resources questioning the validity of the claims of the labour support organisations. While SKK and LIW aimed to continue the dialogue directly with G-Star, G-Star decided to involve its lawyer, who took over the dialogue and began threatening legal action<sup>22</sup>. This way of dealing with the issue has not contributed to a frank and open dialogue between G-Star and SKK/LIW. Instead the lines of communication were disrupted by the interference of the lawyer.

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<sup>20</sup> Letter from Ann Taylor to Clean Clothes Campaign International Secretariat 23 August 2006. Annex 73.

<sup>21</sup> E-mail from Ann Taylor to CCC-IS, 31 Augustus 2006. See annex 78.

<sup>22</sup> Letters by Marcel de Zwaan. See annexes 33, 35, 49, 55, 64 and 70.

In India, the FFI/JKPL management has not taken dialogue with stakeholders seriously, but has instead repeatedly blocked dialogue with GATWU and other stakeholders. FFI/JKPL did not respond to the two letters sent by GATWU, in which GATWU raises a number of serious labour rights issues. FFI/JKPL have consistently denied the reported violations at the factory, instead of seeking to find solutions. They have not followed up on actions agreed at the June 9 meeting. The agreed meeting between the legal adviser, GATWU and workers outside the FFI/JKPL premises was not attended by the company's legal adviser.

On top of this, in late July 2006, local Indian NGOs and trade unions were issued with a restraining order by the City Civil Court preventing them from circulating any information about the labour situation in FFI and JKPL to organisations abroad and in India. Instead of seriously engaging with local stakeholders to improve working conditions, FFI and JKPL have sought to prevent exchange of information about company practices with organisations in India and abroad through a court order.

This restraining order will in no way build meaningful dialogue to bring about a remediation plan to deal with the issues faced by the workers. The court order can only act as a message to workers that if they speak out they will not be believed. FFI has now applied for contempt of court proceedings.

G-Star claims to have nothing to do with the FFI/JKPL request for a restraining order. However, SKK and LIW have reasons to believe that G-Star and its lawyers have assisted FFI/JKPL in applying for a restraining order<sup>23</sup>. Just two weeks prior to the court decision to issue the restraining order, a delegation from G-Star, including G-Star's lawyer Marcel de Zwaan, visited Bangalore. Discussions were held with FFI/JKPL management and specialised Indian experts.<sup>24</sup> No effort was made by the G-Star delegation to speak with Indian labour rights organisations.

#### **Chapter II, Paragraph 8**

***Multinational Enterprises should refrain from discriminatory or disciplinary action against employees who make bona fide reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the Guidelines or the enterprise's policies."***

In the first week of July 2006, workers reported to Cividep that a fake audit had taken place in the factory. Workers were told they could voice their concern to the auditors. Surprisingly, some workers had the courage to do so, probably encouraged by the recent attention from civil society and trade union groups for the plight of workers in the FFI/JKPL production units. However, once the workers had voiced their grievances, the management revealed that the audit was fake and warned the workers about repercussions if they would speak openly to auditors in the future. The names of the workers who had spoken negatively about FFI were displayed in the canteen. One week later, a real audit by audit firm SGS took place, ordered by G-Star. It is obvious that workers would now think twice about speaking out.

#### **Chapter II, Paragraph 10**

***Multinational enterprises should encourage, where practicable, business partners, including suppliers and sub-contractors to apply the principles of corporate conduct compatible with the Guidelines.***

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<sup>23</sup> The lion share of the file submitting by FFI/JKPL to the city civil court when applying for the restraining order consists of documents that must have been provided by G-Star.

<sup>24</sup> Fax from Marcel de Zwaan, 21 July 2006. See annex 55.

As stated above, SKK and LIW are of the opinion that the OECD Guidelines are applicable to G-Star International and its supplier Fibre & Fabrics International Pvt. Ltd. in Bangalore, India, given the fact that G-Star products are made in FFI/JKPL production units, and given the nature and length of the relationship between G-Star and FFI. SKK/LIW believe G-Star has not encouraged its business partners FFI/JKPL to apply the principles of the OECD guidelines to the greatest extent possible, in view of its ability to influence the behaviour of FFI/JKPL. On the contrary, G-Star has neglected its responsibility and has not used its leverage to pressure FFI/JKPL to withdraw the restraining order and to make sure that long term improvements are established.

When SKK/LIW reported on the labour and human rights violations, FFI/JKPL nor G-Star took any action to improve the situation at the production units.

Workers' interviews, conducted in March and April 2006 by GATWU and the fact finding committee revealed new and disturbing information on the labour and human rights situation at FFI/JKPL. It was only after information was published by SKK and LIW that G-Star agreed to meet with SKK and LIW to discuss the problems. G-Star however failed to act in a constructive way to deal with the problems reported by FFI/JKPL workers; G-Star started to question the validity of the allegations, did not take any effort to include local stakeholders in the whole process and has even implied that they could resort to 'cut and run'<sup>25</sup>.

G-Star developed a code of conduct that applies to all its suppliers. 'Suppliers should ensure that no abusive exploitative conditions and practices or unsafe working conditions exist at the facilities where G-Star products are manufactured'<sup>26</sup>. G-Star claims that all its suppliers including FFI are checked against this code. However, a code in itself is not worth a thing. G-Star should make sure that the code of conduct is implemented in all its production facilities. Without soliciting a detailed discussion on G-Star's code of conduct, in a letter to G-Star on 14 July 2006 the SKK and the LIW pointed out 'a number of its weak points compared to the CCC model code: the code does not refer to all relevant ILO conventions or the United Nations Universal Declaration of Human Rights. The code does not include reference to a living wage. Regarding overtime, the G-star code does not clearly limit the number of hours including overtime. The G-Star code does not speak of the need for legally-binding labour contracts. Most important, the G-Star code is silent on the issue of verification.'<sup>27</sup>

Conform to its own code of conduct, G-Star should make sure that FFI/JKPL takes positive measures to ensure that freedom of association is respected. G-Star should give FFI/JKPL guidance concerning compliance with standards on freedom of association and collective bargaining. G-Star could support and facilitate training of management, workers and workers' representatives on freedom of association, collective bargaining agreements and labour management relations.

G-Star now seems to think that freedom of association is an established right. In a letter to SKK and LIW, G-Star lawyer points out that FFI/JKPL is taking freedom of association seriously, referring to a sign put up on the notice board within one of FFI/JKPL's production units<sup>28</sup>.

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<sup>25</sup> E-mail by Frouke Bruinsma, 4 August 2006. Annex 63.

<sup>26</sup> See [www.g-star.com](http://www.g-star.com)

<sup>27</sup> See annex 53.

<sup>28</sup> Letter by Marcel de Zwaan, 21 July 2006. Annex 55.

Obviously, other brands sourcing from FFI/JKPL have a responsibility to uphold labour standards as well. The brands known to be sourcing at FFI/JKPL have been addressed by SKK/LIW in the context of the ongoing campaign.

**Chapter IV, Paragraph 1a**

***Multinational enterprises should respect the right of their employees to be represented by trade unions and other bona fide representatives of employees.***

There is no trade union at FFI/JKPL; the worker interviews and fact finding report reveal that workers are too afraid to join or be associated with trade unions, for fear of dismissal. Workers mention that there is no trade union representation in the factory and workers are not members of any outside trade union either, despite the large workforce of about 4400 employees.

About 50 female workers of FFI/JKPL are member of Munnade, an organisation of women's workers in the garment industry. The FFI/JKPL management is aware that some workers are member of Munnade, but the identity of the women workers who are members is not known.

At the meeting between the FFI/JKPL management and GATWU on 9 June 2006, the management stated that they did not want any trade union disturbances within the company premises<sup>29</sup>. GATWU is not allowed to organise the workers and to find support from the workers in the factories.

**Chapter IV, Paragraph 2c**

***Multinational enterprises should promote consultation and co-operation between employers and employees and their representatives on matters of mutual concern.***

FFI/JKPL insist that the existing grievance committee, set up by FFI/JKPL itself, suffices in dealing with complaints by workers. In the June meeting, G-Star told SKK and LIW that this committee has not received any complaints, and that therefore the violations of labour standards reported by SKK and LIW could not be true. FFI/JKPL explicitly state there is no need for outside persons or union representation to solve the current problems.

In one of the production units there is said to be a 'sexual harassment committee' but this has never been functional.

In all events, it should be understood that worker committees can not replace a proper trade union, since such committees are not legally entitled to engage in collective bargaining.

No consultation and co-operation between management and employees at the FFI/JKPL units is taking place. Because of verbal and physical abuse of workers, harassment and intimidation by supervisors and managers, there is no good relation between employers and employees.

**Chapter IV, Paragraph 4b**

***Multinational Enterprises should take adequate steps to ensure occupational health and safety in their operations***

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<sup>29</sup> GATWU minutes of meeting with FFI/JKPL 9 June 2006. Annex 28.

Health and safety measures in the FFI/JKPL factories are insufficient; workers in the washing unit work with chemicals such as acids, caustic sodas and metallic scrubbers which are harmful for their health. Masks are provided, safety spectacles and shoes are reported to be lacking. Workers do not always wear the masks because they are of bad quality and uncomfortable to use. Gloves are not provided regularly, only when social audits take place. Exposure to hazardous chemicals might be the cause of large numbers of workers falling ill.

**Chapter IV, Paragraph 7**

***In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising their right to organise, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer employees from the enterprises' component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organise.***

G-Star, in its communication to SKK and LIW, implies that they could resort to 'cut and run'.<sup>30</sup> Cutting and running from a factory - in other words, withdrawing orders - is not a constructive approach to dealing with poor working conditions in a company's supply chain. SKK and LIW are very clear that buyers should work with factory owners and management to develop and implement remediation strategies, and should not 'cut and run' when violations are reported.

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<sup>30</sup> See annex 63.

### III. Demands towards to G-Star

SKK and LIW call upon G-Star, and other brands sourcing from FFI/JKPL, to ensure that:

1. FFI/JKPL withdraw the complaints so that the restraining order can be removed and the contempt of court proceedings are halted.
2. FFI/JKPL meets with local stakeholders including GATWU, NTUI and Women Garment Workers' Front 'Munnade' to follow up on previous meetings.
3. FFI/JKPL develops and implements a remediation plan in collaboration with GATWU and other stakeholders to address the specific issues at the factory as already outlined to FFI/JKPL and the brands sourcing from the factory (see below).
4. There is local stakeholder involvement in any social audit and other activities aimed at addressing the issues in the factory.
5. A complaints' mechanism is set-up for workers to report non-compliance issues anonymously that involves organisations that workers are confident will follow-up on their concerns.
6. Freedom of association is truly implemented, and mechanisms for collective bargaining are established. A continuous dialogue with local stakeholders is the basis for this.

The following are among the demands made by GATWU to FFI/JKPL management:

1. Immediate halt to all human rights violations such as violence against workers.
2. Recognition of all labour and human rights of workers under national and international law.
3. Halt to physical abuse of workers by supervisors and managers and investigate past incidents of such abuse.
4. Constitute committees that include workers to ensure that the Supreme Court of India guidelines concerning prevention of sexual harassment are followed.
5. The companies must demonstrate on a monthly basis through verifiable documents how overtime wages are being paid.
6. Issuance of letter of employment and identity cards to all new employees. This is important because there is a high rate of turnover.
7. Provision of 'leave with wages book' to each new employee.
8. Provision of crèche, restrooms and canteen facilities covering all employees.
9. Institution of proper health and safety measures especially in the Washing Unit.
10. Halt arbitrary termination of the services of workers without following due legal process.
11. Recognition of the right to freedom of association and collective bargaining of the workers and prevention of any victimisation of workers for associating themselves with labour support organisations.

Names of workers should remain confidential in order to protect their safety.

We call on the Dutch National Contact Point to play an effective role in the resolution of the issues raised in this report.

SKK and LIW ask the Dutch NCP to:

- facilitate a dialogue between SKK/LIW and G-Star - on the understanding that removal of the restraining order in India is a pre-condition for the continuation of the dialogue in the Netherlands
- bring about a dialogue between G-Star and its Indian suppliers FFI/JKPL to make sure an effective remediation plan is developed and implemented in collaboration with local stakeholders

- help bring about a mediated local dialogue between FFI/JKPL and labour rights organisations involved in order to develop and implement an effective remediation plan. This is in the understanding that the local labour rights organisations, including GATWU, Cividep and Munnade are currently extremely limited in their activities by the restraining order.

A first step is the identification of independent persons to help bring about a positive and constructive outcome of a meeting or a series of meetings between FFI/JKPL and GAWTU and other labour rights organisations. These persons could play a role in

- formulating an agreed agenda
- enabling FFI/JKPL and local labour rights organisations to at least understand each others' positions
- chairing the meeting
- ensuring minutes are made that are agreed upon by both parties

Objectives of such meetings

- find solutions and workable ways forward that are agreed by both parties
- make sure that follow up is given to a agreed remediation plan.

With regard to the Dutch NCP's handling of this case, SKK and LIW would like to make the following procedural recommendations:

- The Procedural Guidance on Implementation in Specific Instances requires the National Contact Point to make an initial assessment of whether the issues raised merit further examination and respond to the party or parties raising them in an efficient and timely manner. We, therefore, request a response indicating how the Dutch National Contact Point intends to proceed on an expedited basis.
- SKK and LIW expect the NCP to set concrete timelines for its handling of this case. For example, the NCP should acknowledge receipt of the complaint at the latest seven (7) days after receiving it, and conduct an initial assessment within three weeks. The procedures the NCP will follow to make this assessment should be clearly stated. The NCP should make sure an action plan in relation to the above stated demands is ready within two (2) months. The NCP should strive to ensure that the implementation of this plan is completed within six (6) months, and that the process takes no longer than nine (9) months. It is first necessary to ensure that the court order is removed to enable an effective remediation.
- SKK and LIW expect the NCP to seek to facilitate communication and exchange of information between the parties in a manner that is transparent and objective
- The NCP should allow both parties to nominate outside experts to consult and provide input on the issue
- If mediation is unsuccessful, we expect the NCP to issue a clear statement on the substance of the allegations and whether they represent a breach of the OECD Guidelines
- The NCP should offer to hold some of the meetings associated with the specific instance procedure in India, rather than insisting that parties come to the NCP headquarters for all meetings. This is especially important since the organisations in support of whom SKK and LIW are filing this report are currently very limited in their communication and travelling possibilities.
- Given that this case primarily involves labour issues in an international supply chain, the NCP should bring in the Dutch Ministry of Foreign Affairs and the Ministry of Social Affairs and Employment (SZW) in resolving the case.