

## **Final Report**

### **on a specific instance brought by an interest association for alleged violations of human and labour rights in the supply chain of companies operating in the textile industry**

20 May 2022

This Final Report (hereinafter the “Report”) describes the subject matter, procedures and results of the examination of a specific instance related to a notice filed by a Czech interest group (hereinafter the “Complainant”) for alleged human rights violations in the supply chain under the OECD Guidelines for Multinational Enterprises (hereinafter the “Notice”) by a company registered in the Czech Republic and operating in the textile industry (hereinafter the “Company”). The specific instance was examined with the assistance of the Czech National Contact Point for the implementation of the OECD Guidelines for Multinational Enterprises (hereinafter the “NCP”).

The report contains a summary of the results of the examination of the specific instance to the extent agreed between the Complainant and the Company in the Joint Conclusions.

Pursuant to the Implementing Procedures to the OECD Guidelines for Multinational Enterprises (hereinafter the “Implementing Procedures”), this Report will be published on the NCP’s website and sent to the OECD Secretariat and the OECD Investment Committee, and subsequently linked to on the OECD website in the database of specific instances.

The NCP is a neutral forum and discussing any specific instance is neither a judicial nor administrative procedure and its decisions are not binding on judicial or administrative proceedings.

## The position and role of the NCP

The Czech NCP is a quadripartite body representing the government, employers, employees and civil society. The NCP was established by government resolution as a permanent working group under the Ministry of Industry and Trade. The role of the NCP is to promote responsible business conduct as defined in the Guidelines and to assist in resolving disputes related to possible violations of the Guidelines with multinational enterprises established or operating in the Czech Republic.

The NCP can contribute to the resolution of a dispute by providing good offices, such as by offering an independent and neutral platform for the parties to discuss, by mediating between the parties to a specific instance, or by proposing to the parties to resolve a specific instance through mediation. Unless the NCP decides otherwise, these services are provided to the parties by the Secretariat of the NPC (hereinafter the “NCP Secretariat”).

The purpose of examination by the NCP is to find a solution to which both parties to the specific instance can agree. If the parties, with the assistance of the NCP, reach an agreement, the NCP will issue a report on that fact, describing the subject-matter of the notice, the reasons that had led it to address the notice, and the process that has resulted in reaching an agreement and, where relevant, a recommendation to bring the situation in line with the Guidelines. This Final Report is a report referred to in this paragraph.

If the parties agree to a resolution to a specific instance, the NCP will monitor the implementation of the agreement made between the parties and the NCP recommendations by the parties for a period that has been agreed with the parties as part of mediating the agreement between them.

## A brief summary

In May 2018, the NCP received a complaint regarding a company operating in the textile industry, namely selling textiles and based in the Czech Republic, for human rights violations in its supply chain (hereinafter “Notice”). The Notice was filed by an interest association also based in the Czech Republic.

The Notice pointed to alleged violations of the Guidelines with respect to human rights, employment and industrial relations, and general practices such as the exercise of due diligence in the supply chain.

The Notice namely referred the following sections of the Guidelines:

- Chapter II “General procedures”, points A(1), (2), (10), (12) and (13)
- Chapter IV “Human Rights”, paragraphs 1, 3 and 5
- Chapter V “Employment and industrial relations” paragraph 1(c) and (d).

Having considered the contents of the Notice and the Company's initial response, the NCP has decided to further address the Notice. The decision to address the matter was not based on factual findings of a breach of the Guidelines or did prejudice that a breach of the Guidelines had occurred on the part of the Company. However, in order to fulfil the purpose of the Guidelines, it was considered appropriate to clarify certain issues, in particular regarding the due diligence process, and to ensure that there would not be a negative impact, even potentially, on the interests protected by the Guidelines.

In its submission of the Notice, the Complainant stated that the purpose of its Notice is to improve the protection of employee rights of suppliers who are part of the Company's supply chain and, in particular, to improve the working conditions of employees at a specific factory located in Myanmar (operated by an unnamed foreign company which is part of a multinational corporation – hereinafter the "Multinational Enterprise") if the Company sources or has sourced textile products from that factory.

In response to the Notice, the Company stated that it is exercising due diligence and thoroughly checking its suppliers. The Company requests references and detailed descriptions of production, quality of materials, audits and certificates from individual suppliers and cooperating companies (e.g. the Fair Wear Foundation, hereinafter the "FWF"). The Company has stated that it has focused on representing premium brands since the beginning as it has greater guarantees not only in product quality but also in service and environmental and social responsibility in the production of its brands in cooperation with these partner companies.

As both parties to the specific instance are registered in the Czech Republic and the notice concerned conduct and facts in Myanmar, which has not acceded to the Guidelines, there was no need to discuss the case with partner NCPs.

The good offices of the NCP were offered to the parties to the specific instance in September 2018 and in November 2018 both parties signed the Terms and Conditions for the Provision of Good Offices by the NCP. The good offices were provided by the NCP Secretariat and were concluded with the signing of the Joint Conclusions by both parties relating to the specific instance in April 2022 (hereinafter the "Joint Conclusions").

Apart from the recommendations arising from the Joint Conclusions signed by the Company and the Complainant regarding the individual due diligence steps, the NCP does not propose any further recommendations to the Company.

The Company should address the recommendations and inform the NCP of its response to the recommendations within one year after signing the Joint Conclusions.

## The subject matter of the specific instance, the opinion of the Complainant and the opinion of the Company

The Complainant filed the Notice on its own behalf following cooperation with the Centre for Research on Multinational Corporations (SOMO) based in the Netherlands, which conducted research on working conditions in factories in Myanmar entitled The Myanmar Dilemma. Can the garment industry deliver

decent jobs for workers in Myanmar? (hereinafter the “SOMO Report”). In the Notice, the Complainant stated that it was not submitting the Notice on behalf or in the name of any injured party.

According to the Complainant, the Company violated the Guidelines by directly (i.e., without an intermediary) sourcing products from the Multinational Enterprise’s factory located in Myanmar at least in 2016, without due diligence to identify and address the risks of human and labour rights violations at that factory.

While the Complainant pointed out that the failure to respect internationally recognised human and labour rights was primarily a concern of the Multinational Enterprise, the Complainant also pointed out that the Company should have taken into account the human rights situation in Myanmar as part of its due diligence process when establishing its business relationships, prevented human rights violations in its business relationships, and, where appropriate, attempted to mitigate the consequences of such violations if they had already occurred. According to the Complainant, the Company should have a due diligence process in place for all risks of adverse impacts in its supply chain in all countries where such risks can reasonably be anticipated. According to the Complainant, the absence of a due diligence process constitutes a violation of the Guidelines not only in relation to this specific instance but also in general, as it poses a risk in other business relationships between the Company and suppliers of products offered by the Company that are manufactured in Myanmar and other countries in South-East Asia with a high risk of human rights violations. The Complainant stated that the Company failed to meet the standard of due diligence required by the Guidelines by failing to identify the human rights and labour rights violations at the factory mentioned above, although, for example, an on-site inspection of the human rights and labour rights violations could have identified them. According to the Complainant, the Company did not disclose any information showing whether and how it was implementing due diligence in its supply chain, although according to the Guidelines such information should be publicly available.

In its response to the Notice, the Company stated that it does not believe that it can be characterised as a multinational enterprise under the Guidelines because it has a registered business only in the Czech Republic. Although bearing its trade name, entities located in other countries are otherwise independent legal or natural persons under a franchise agreement. According to the Company’s statement, since the beginning, the Company has focused on representing premium brands because in cooperation with these partner companies it has higher guarantees not only in the quality of products, but also in the service and responsibility in the production of their brands for the environment, social responsibility in terms of due diligence, etc.

According to its statement, the Company is aware of the existence and recommendations of the Guidelines and the standards of responsible business conduct, which it takes into account in its business activities in various ways. In its position, the Company has explained its business model, business strategy as well as the specific process for selecting the supplier referred to in the Notice. The Company stated that it is actively engaged in the corporate social responsibility and due diligence process under the Guidelines. It regularly participates in international meetings of clothing brands with

which the Company has exclusive representation, including conferences, lectures and discussion forums on sustainable development. The Company has documented its involvement by listing a number of corporate social responsibility projects in which it is involved in the Czech Republic and Slovakia. According to its statement, the Company thoroughly screens its suppliers. The Company requests references and detailed descriptions of their production, quality of materials, audits and certificates from individual suppliers and cooperating companies (e.g. the Fair Wear Foundation, hereinafter the “FWF”). One of the world-famous brands, which the Company represented exclusively in the Czech Republic at that time, recommended the aforementioned Multinational Enterprise and the famous brand was already manufacturing their goods there. The Company was familiar with the high standards of this Multinational Enterprise. At that time, the selected supplier, the Multinational Enterprise, was already one of the leaders in the field, not only in terms of professionalism in cooperation, but also in terms of progressive management and high standards in production. According to the Company, the Multinational Enterprise is regularly audited by the FWF and received FWF certification (as well as Bluesign certification). One of such audits was the May 2016 FWF audit which the Company learnt about during 2016. The Company said it has been in constant contact with representatives of the Multinational Enterprise. In 2016, the Company received information from the Multinational Enterprise regarding the expansion of production to Myanmar. Based on this information, the Company requested a detailed presentation of the production in Myanmar, audit report and certificates. An FWF audit was also in progress at that time. The factory mentioned in the Notice also manufactures products for premium brands with a global presence (members of FWF) and because of that, the Company regularly consults the conditions concerning manufacture and related issues in meetings with its partners, the manufacturers of these brands. Based on the available documentation and its previous experience, the Company had no reason to doubt the standards in the manufacturing of its products in Myanmar and it did not find any reason to terminate the cooperation. In view of the relatively low volume of products manufactured in the above-mentioned factory and the Company’s priority focus on representing premium brands, the Company considers the above activities to be adequate and fully sufficient. The Company stated that, to the best of its knowledge, at the time when the Notice was filed, the situation in the factory was fine and referred to the FWF report published in 2017. The Company also mentioned that during the FWF audit, other allegations made in the SOMO Report (December 2016) were not confirmed.

Given the fact that the provision of good offices by the NCP requires a high degree of trust on both sides in each specific instance as sensitive information is shared, and given the impossibility of verifying all the facts that have been alleged by both sides, and also because the main objective of the examination is to raise awareness of the opportunities for responsible business conduct and to suggest to companies possible approaches to improve their business strategies, the NCP has decided to take advantage of the option given by the Procedures not to disclose the names of the parties, both during and after the examination of the specific instance, and to disclose only the content of the Joint Conclusions to the extent agreed. Both parties agreed to this approach.

## Initial assessment by the NCP

In accordance with the Guidelines and the Rules of Procedure of the NCP, the NCP decided to address the Notice as it believed that the Notice was submitted in good faith and also believed, without assessing whether or not there had been a breach of the Guidelines, that the issues raised in the Notice related to the scope and implementation of the Guidelines and that further examination of the Notice would help to clarify the purpose, application and effectiveness of the Guidelines. A link to the Initial Assessment is available [here](#)

## The provision of good service by the NCP

On 21 May 2018, the Secretariat of the Czech NCP received the above-mentioned Notice in electronic format and subsequently on 24 May 2018 in writing. The NCP Secretariat informed all NCP members immediately.

On 22 May 2018, the NCP Secretariat confirmed by e-mail to the Complainant that it had received the Notice and sent the Complainant a link to the Rules of Procedure of the NCP. At the same time, the Complainant was informed that the NCP had to first assess whether the Notice complied with all the requirements pursuant to the Guidelines and the Rules of Procedure of the NCP, and that if it did not, the NCP Secretariat would contact the Complainant and request a correction be made. It was also suggested that the Complainant should consult the NCP Secretariat at any time regarding any questions it may have had.

On 1 June 2018, the NCP Secretariat sent the Complainant confirmation that the Notice met all the requirements. The NCP Secretariat also asked whether there was any information in the Notice that the Complainant did not wish to disclose to the Company. The NCP Secretariat informed the Complainant that the Company had 6 weeks to review the Notice and comment on it.

On 11 June 2018, following a prior telephone call to the Company, the Notice was sent to the Company, which promptly responded and requested a face to face meeting with the NCP Secretariat.

On 22 June 2018, a face to face meeting was held between the Company and the Secretariat, where the role of the NCP, procedures and options for resolving the negotiations were explained by the NCP Secretariat. The Company provided the NCP Secretariat with written reports and other information that showed the Company's attitude towards trading and due diligence in supply chains. These documents, together with the Company's position on the Notice, were then sent to the NCP Secretariat in electronic format.

Since the NCP is a collective body that makes decisions by consensus or, in the case of a disagreement, by a vote, it was necessary to obtain the views of all NCP members on the matter. On 3 July 2018, the

NCP Secretariat forwarded to all members of the NCP both the Notice sent by the Complainant and the position and documents provided by the Company. At the same time, the parties were reminded of their obligation to maintain confidentiality.

On 10 August 2018, a draft Initial Assessment was sent to both the Complainant and the Company with a request for comments. Both the Company and the Complainant agreed to the text of the Initial Assessment.

The draft Initial Assessment was approved by the NCP members per rollam in August 2018 due to the holiday period when it would be difficult to meet in sufficient numbers in person.

On 30 August 2018, the approved final text of the Initial Assessment was sent to both the Complainant and the Company. The Company responded by telephone and enquired about the reasons for the commencement of the examination as it was not convinced that it was necessary. After explaining the process and the possible outcomes of examination or the failure to do so, the Company finally agreed to the examination with the assistance of the good offices of the NCP Secretariat. On 4 September 2018, the Complainant also granted its consent electronically.

As this was the first specific instance examined by the NCP, it was necessary to define the conditions under which good offices would be provided to the parties. The conditions were based on the Rules of Procedure of the NCP and the Implementing Procedures of the Guidelines; however, it was necessary to specify the conditions under which services would be provided in this particular case and to add some steps.

On 2 October 2018, the NCP Secretariat met with the Complainant. The purpose of the meeting was to clarify how the Secretariat would proceed with the case and to explain the reasons and conditions for the provision of services by the NCP Secretariat, as well as to find out what the Complainant's idea was regarding the resolution of the specific instance.

On 5 November 2018, a draft of the Terms and Conditions for the Provision of Services was sent to both parties, and after minor comments, both parties approved and signed the Terms and Conditions.

On 3 April 2019, draft Joint Conclusions were sent to the Complainant as an agreement between the Company and the Complainant. Negotiations over the draft Joint Conclusions and consultation on comments between the Secretariat and the Complainant took place from April to July 2019.

In November 2019, the Secretariat visited the Company in person to explain and answer the Company's questions related to the draft Joint Conclusions. During the visit, the Company presented how it is organized and how it operates and acquainted the Secretariat with the update of its website and internal regulations, which were completed with additional aspects of responsible business conduct and parts of the Code of Conduct.

After several rounds of comments, there were still a few points that needed to be modified to make them acceptable to both sides. The subsequent pause in the examination of a specific instance was caused both by the covid-19 pandemic and the participation of the NCP Secretariat in programmes to assist businesses affected by covid, as well as other objective and subjective delays with all parties involved.

However, there was occasional communication between the NCP Secretariat and the Complainant and the Company, both in the form of enquiries about the process and information about the reasons for delays and developments.

During 2021, the last points of the Joint Conclusions were finalised, in particular in relation to reporting obligations, the clarification of terminology and the disclosure of factory names.

In January 2022, thanks to the approach taken by both parties, the negotiations were successfully concluded and the text of the Joint Conclusions approved.

In April 2022, both the Complainant and the Company signed the Joint Conclusions.

Subsequently, the NCP decided to close the specific instance and to prepare a Final Report that included the recommendations contained in the Joint Conclusions to the extent agreed to by the parties.

It is obvious that the expected timeframe to close a specific instance within 12 months has been exceeded. However, the deadline for commencing an examination within three months of receipt of the Notice and the deadline for issuing the Final Report after the closure of the specific instance were met. The delay in the examination of the subject matter of the specific instance was partly caused by the fact that this was the first specific instance addressed by the NCP and all the procedures, although their framework is provided in the Rules of Procedure of the NCP, were being carried out for the first time, and questions arose as to which procedure was correct. At the same time, the priority was to try to reach an agreement that contained workable and meaningful recommendations. Other reasons, such as the covid-19 pandemic and difficulties associated with it, and other objective and subjective reasons, have already been mentioned above.

## The result of providing good service

The Complainant and the Company together signed the Joint Conclusions in which they agreed that responsible business conduct plays an important role in protecting the rights and interests promoted by the Guidelines and that due diligence, as defined by the Guidelines, is one of the fundamental tools used to assess risks and thereby prevent harm that may be caused in business activities to the rights and interests protected by the Guidelines, such as human rights and employee rights. The Joint Conclusions and the recommendations contained in them are in line with the recommendations of the Guidelines.

A portion of the Joint Conclusions, the disclosure of which the Complainant (referred to below as the “Organisation”) and the Company have agreed to, is provided below.

### *I.*

#### *Strategy*

1. *The importance of responsible business conduct and due diligence will be addressed in the Company’s publicly available strategy and policy on responsible business conduct (or a similar public document, hereinafter the “Policy”). The Policy defines how the Company takes account of responsible business conduct and due diligence considerations in its business decisions and in its selection of suppliers. The Policy and any measures taken thereunder will be reviewed by the Company’s management on a regular basis, ideally once a year, and if found to be inadequate, they will be amended accordingly.*
  
2. *The Policy may form part of the Company’s Code of Conduct that will define the basic principles of due diligence used to identify and evaluate actual and potential risks associated with doing business within supply chains, including an indication of the type and extent of information that the Company will seek to obtain about its suppliers.*

### *II.*

#### *Due diligence*

3. *Following the Policy and the Company’s Code of Conduct, the Company will accordingly amend its internal due diligence system to identify, prevent and mitigate potential risks of human rights violations in its supply chain. Where achievable and possible for the Company, this system will include:*
  - a. *obtaining information that suppliers have implemented measures to identify and address risks of violations of workers’ rights in factories and that these measures meet the Company’s standards,*

- b. establishing responsibilities for employees and suppliers regarding compliance with the Company's standards, in particular reflecting compliance with these standards in the supply chain management system, procurement procedures and internal reporting,*
  - c. regularly, at least annually, assessing the most significant risks.*
- 4. In order to effectively implement the due diligence system, the Company will train its employees and members of the Company's management who have direct responsibility for supply chain management and supplier relations.*

### *III.*

#### *Suppliers and cooperation in the supply chain*

- 5. In its business activities, the Company will ensure that businesses that are part of its supply chain are informed about the principles of responsible business conduct and due diligence practices so that adverse impacts of their activities on human rights can be avoided.*
- 6. To the extent possible, the Company will consider working with other buyers on sector-wide buyer initiatives to promote improved protection of workers in supply chains in high-risk countries (such as the Fair Wear Foundation, the Ethical Trading Initiative, the Fair Labor Association).*
- 7. At least once a year, the Company will assess the riskiness of its suppliers in relation to the interests protected by the Guidelines.*
- 8. The Company will reflect the Code of Conduct in the contracts with its suppliers.*
- 9. The Company's Code of Conduct, namely the section on cooperation with suppliers, will contain in particular the following requirements that suppliers will have to meet:*
  - a. Compliance with applicable laws and international labour standards and human rights in the production of goods,*
  - b. The implementation of measures to identify, prevent and address risks of breaches of these standards and rights by their subcontractors,*
  - c. Labelling the manufacturers and factories where the goods are produced.*

### *IV.*

#### *Disclosure of Information*

10. *Responsible business conduct involves informing the business community and the public about the principles of responsible business conduct as defined in the Guidelines. This can be done via the Company's website or other appropriate means. In this respect, the Company will always publish the full and up-to-date content of its Policy and Code of Conduct.*
11. *The Company will also include relevant chapters in annual reports (such as in its annual report), including:*
  - a. *information on the existing due diligence system for identifying and addressing risks of labour standards violations in the supply chain*
  - b. *information on the most significant risks that have been identified, including information on their development, the measures taken by the Company to investigate and address them*
  - c. *information, if identified, on specific instances of threats to labour rights and steps taken to ensure a remedy by manufacturers and suppliers.*
12. *The Company will work with its direct suppliers to develop and publish a list of countries in which its major suppliers are located. Where possible and as long as it does not violate the Company's trade secrets, the Company, in cooperation with its direct suppliers, will strive to identify and disclose factories where the goods in which the Company trades are manufactured.*

## V.

### *Next steps*

13. *The Company will implement the above recommendations within one year of signing these Joint Conclusions.*
14. *The Company should inform the NCP Secretariat of the measures taken on an ongoing basis, but no later than the end of the period referred to in the previous article.*
15. *The Organisation agrees that in the 18-month period following the signing of these Joint Conclusions, the Organisation will be informed directly by the NCP Secretariat of all developments in the implementation of the above recommendations if the Organisation requests so.*
16. *The Participants agree that the NCP may disclose the provisions of Chapters I through V without identifying the Participants to these Joint Conclusions. The confidentiality clause of the "Conditions for the provision of good offices by the NCP for the implementation of the OECD Guidelines for Multinational Enterprises" remain unaffected.*

## Conclusions

The purpose of the examination was not to determine whether or not there had been any violation of rights in the Company's supply chain and what the Company's involvement in the possible violation was, but whether or not the Company had a mechanism for conducting due diligence and is able to effectively and to the best of its ability prevent such situations.

The NCP would like to express its appreciation with the approach of both the Complainant and the Company, who provided the NCP with full and patient cooperation and approached the examination in good faith.

During the examination of this specific instance, it was determined that the Company has and applies the principles of due diligence in its operations and in its supply chain. The NCP believes that through its involvement in the examination of the specific instance, the Company has added additional due diligence aspects to its internal procedures and policies and will address the recommendations contained in the Joint Conclusions.

## Next steps

Based on the Joint Conclusions, the NCP will be in contact with the Company for a period of one year from the signing of the Joint Conclusions and will be informed of any steps that were or are being taken by the Company regarding the recommendations contained in the Joint Conclusions. At any time during the 18-month period following the signing of the Joint Conclusions, the Complainant may ask the NCP how the Company is addressing the recommendations.

Both the Complainant and the Company have been consulted on this Final Report.