

electronics  watch

## Compliance Report Update

Cal-Comp Electronics, Thailand

Brands: HP, Western Digital, Seagate

Products: Printers, scanners, photocopiers,  
external hard disk drives, satellite boxes,  
other computer peripherals.

October 2018

## Acknowledgements

This public compliance report is made possible by the dues of Electronics Watch affiliates. Previous research findings and recommendations on the same topic have been confidential to affiliates and select stake holders.

Electronics Watch is an independent monitoring organisation that helps public sector organisations work together, and collaborate with civil society monitors in production regions, to protect the rights of workers in their electronics supply chains. Electronics Watch works with an international network of local civil society organisations that conduct worker-driven monitoring with the goal of strengthening workers' own voices to report on and address labour and safety issues in their factories. In this case, workers reported concerns to the Migrant Worker Rights Network (MWRN) in Thailand over a period of two years, 2016-2018.

Electronics Watch would like to thank all those who contributed to this research, and note especially the contributions of the workers and our researchers.

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### Facts at a Glance: Cal-Comp Electronics in Thailand

- Cal-Comp Electronics (Thailand) Public Company Limited (Cal-Comp) was established on December 4, 1989. Cal-Comp is an Electronics Manufacturing Services Company providing services to OEM (Original Equipment Manufacturing) and ODM (Original Design Manufacturing) companies.
- The parent company of Cal-Comp, New Kinpo Group (NKG), is a member of the Responsible Business Alliance (RBA). Other companies associated with NKG and Cal-Comp, whose workers were interviewed for this report, include Cal-Comp Precision (Thailand) Co Ltd.
- Two of three Cal-Comp factories in Thailand are located in the provinces of Samut Sakhon and Petchaburi. Cal-Comp also has a factory in Ayuddayah province of Thailand with other locations in China, Malaysia, the Philippines, Brazil and the United States.
- Cal-Comp is one of the leading employers of migrant workers in Thailand with an estimated migrant workforce of more than 13,000 workers, the vast majority from Myanmar but also some from Cambodia.
- Cal-Comp's main products are computer peripherals and telecommunications products. Computer peripherals include ink jet printers, laser printers, multi-function printers, 3D printers, external hard disk drives and more.
- Brand customers include Western Digital, Seagate, Hitachi, Toshiba, Huawei, HP, Konica Minolta, Ricoh, Panasonic, Lexmark, Sharp, and others.
- Sales revenue was 107,400 million Thai Baht (€2.8 billion) in 2016, and the net profit margin was 1,05%.

Sources: Electronics Watch, and Annual Report 2016 Cal-Comp Electronics (Thailand) Public Company Limited ([http://taipei.calcomp.co.th/english/file/Web\\_Site\\_English/Annual%20Report/AR\\_2016\\_ENG.pdf](http://taipei.calcomp.co.th/english/file/Web_Site_English/Annual%20Report/AR_2016_ENG.pdf))

## 1. Executive Summary

This Executive Summary contains a summary of the major findings. Those interested in a simplified review of findings and recommendations should refer to Annex I.

Cal-Comp Electronics (Thailand) Public Company Limited (Cal-Comp), alongside Cal-Comp Precision (Thailand) Co Limited, is one of the leading employers of migrant workers in Thailand. With an estimated migrant workforce of more than 13,000 workers, the vast majority from Myanmar but also some from Cambodia, it is crucial that the global corporation, whose parent company New Kinpo Group (NKG) is a member of the Responsible Business Alliance (RBA) and supplier to major electronics brands across the globe, ensures ethical recruitment of migrant workers, complies with the “employer pays” principle, and mitigates risk of debt bondage and forced labour.

This report documents research conducted by Electronics Watch from 2016 to 2018 based on interviews with recruitment agents and migrant workers from Myanmar working at Cal-Comp’s two major production facilities in the Samut Sakorn and Petchaburi Provinces of Thailand. This research shows that whilst there has been considerable improvements in treatment of migrant workers at these two facilities, Cal-Comp remains far from complying with ethical recruitment standards as stated in the RBA Code of Conduct. As a result migrant workers are still at risk of forced labour.

Since 2016 Cal-Comp has directly employed almost all migrant workers previously employed by subcontracted employment agencies at two of its three Thailand facilities and has returned personal identification documents formally confiscated or unlawfully held by Thai or Myanmar recruitment agents or brokers. Thai law was amended in 2016 to outlaw subcontracted use of migrant labour. All workers now report possessing contracts of employment and improved conditions of work. Cal-Comp has also begun paying costs for migrant workers in Thailand in excess of those required under Thai law, including for migrant workers’ work permits, health checks and immigration visas. This is partly in response to Electronics Watch’s October 2016 research.

However, in 2017 and 2018 Myanmar migrant workers continued to report excessive recruitment fees and costs to the Migrant Worker Rights Network (MWRN), an Electronics Watch monitoring partner. As a result Electronics Watch undertook further research on the emerging recruitment system and its risks to workers.

Electronics Watch has found that Thai recruitment agencies, the same that managed and employed Cal-Comp’s previous subcontracted labour force, and unable to charge worker recruitment fees since the 2016 amendment to Thai law, have instead demanded ever larger sums of money or “kickbacks” per worker hired from competing

Myanmar recruitment agencies eager to secure demand letters to recruit workers for the factory. The Myanmar agencies, in turn, pass the costs onto the migrant workers themselves, either directly or through registered or unregistered subagents or brokers operating under these agents.

Migrant workers, vulnerable and economically weak already, end up further indebted and at increased risk of forced labour during the time it takes them to pay off debts as a result of these additional and unlawful costs, which are well in excess of the 150,000 Myanmar Kyat (€79)<sup>1</sup> limit they should have to pay under Myanmar regulations. In some cases workers have reported nearly €700 in recruitment related service fees or costs, equivalent to more than two months' salary.

Thus, whilst remaining in compliance with Thailand's migration laws, systematic exploitation of migrant workers has arisen in Cal-Comp's migrant worker recruitment channels, resulting in non-compliance with Myanmar's prescribed limits on fees that can be charged to migrating workers.

Managing an ethical recruitment process requires understanding the true costs of migration to ensure that both Thai and Myanmar agents as well as subagents that are part of recruitment processes into Cal-Comp's two facilities in Thailand, are provided an amount for their services which ensures they do not need to take any money from workers. It also requires a system of effective oversight of all registered agents and subagents involved in recruitment processes.

Cal-Comp alongside its customers and the RBA have acknowledged challenges and instigated a process to remedy migrant workers for past unethical recruitment into the company's facilities. While most workers interviewed knew about, or had heard of, or had directly experienced Cal-Comp's efforts to remediate excessive fees paid for recruitment related costs and services, this remedy process appears lacking in transparency, and does not appear to apply international best practice that requires employers to shoulder the burden of proof in remedying exploited migrant workers. Cal-Comp's requiring migrant workers to provide receipts as evidence of fees unlawfully or unethically paid in Myanmar to be guaranteed a remedy is especially problematic.

<sup>1</sup> In this report, the following currency conversion is used: €1 = 1,890 Myanmar Kyat.

## 2. Introduction: Chronology of Events 2016-2018

In October 2016, Electronics Watch received an alert from the Burmese Migrant Worker Rights Network (MWRN) in Thailand that Cal-Comp Electronics factories in Thailand were unlawfully withholding passports and other identity documents of migrant workers from Myanmar and charging these workers exorbitant recruitment fees, leading to increased risks of debt bondage and forced labour.

There are an estimated four million registered and unregistered migrant workers from Myanmar in Thailand. Many migrants work in livestock and seafood processing/fisheries, hospitality, domestic work as well as other labour-intensive export industries. Migrant workers are protected under Thailand's Labour Protection Act, but in practice they are at risk of labour rights violations, such as illegal wage deductions, excessive working hours and poor and unsafe working conditions.

Following the ILO Convention (C181) on Private Employment Agencies, industry groups globally have adopted the principle that the cost of recruitment of migrant workers for work should be borne by an employer and not a migrant worker (i.e. the Employer Pays Principle).<sup>2</sup> In addition, numerous ethical recruitment standards are also currently being developed including IOM Iris<sup>3</sup>, Clearview<sup>4</sup> and On the Level<sup>5</sup>.

However in practice, migrant workers often continue to pay excessive or exorbitant formal and informal fees and other costs related to recruitment to a plethora of recruitment agencies or labour brokers, both registered and unregistered, in countries of origin and destination. This results particularly from lack of effective government regulation concerning recruitment fees and practices, poor implementation of prescribed regulations or loopholes in recruitment standards, corruption, unclear definitions of fees that are not allowed to be charged to workers, insufficient monitoring of recruitment standards as well as a lack of worker voice. As a result, migrant workers can still incur high levels of debt resulting from their recruitment and are at increased risk for debt bondage and forced labour.

Workers from Cal-Comp reported to MWRN in 2016 that their passports and work permits were being held by Thai recruitment agencies, subcontractors or Myanmar brokers working for these agencies that managed workers' registration in Thailand for Cal-Comp, and that they had paid up to €850 (or up to three months' wages) during the recruitment processes in Myanmar and in Thailand. Depriving workers of possession of their passports and personal identity documents, charging high recruitment fees, and charging workers to maintain their legal immigration status can restrict workers' freedom of movement and therefore increase the risk of workers falling victim to forced labour or debt bondage<sup>6</sup>.

<sup>2</sup> Launched in May 2016, this Principle states: "No worker should pay for a job—the costs of recruitment should be borne not by the worker but by the employer." The Principle has been endorsed by the Leadership Group for Responsible Recruitment, including HP. See <https://www.ihrb.org/employerpays/the-employer-pays-principle>. The Responsible Business Alliance has incorporated the Principle in its code of conduct and challenged other industries to adopt the Principle.

<sup>3</sup> <https://iris.iom.int/>

<sup>4</sup> <https://www.clearviewassurance.com/>

<sup>5</sup> <http://www.fairhiringinitiative.com/>

<sup>6</sup> For international standards and indicators of forced labour from the ILO, see [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_203832.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_203832.pdf)

Workers' wage slips also showed wage deductions for food and housing, not allowed under Chapter 5, section 76 of Thailand's Labour Protection Act.

Upon receiving the alert, Electronics Watch contacted HP, a significant buyer, recommending the immediate return of all identification documents and personal documents to workers and repayment of excessive or illegitimate fees. HP reported that they conducted a third party Foreign Migrant Worker Assessment within 30 days of receiving the Electronics Watch report, and then developed a corrective action plan and implemented a remedy on the HP lines. HP also stated it had conducted worker rights training to ensure that the workers on the site understand their rights and how to bring forward concerns to their employer.

Soon thereafter MWRN reported that subcontractors had returned some passports and work permits to the workers and started a process to compensate them for illegitimate fees and wage deductions. Moreover, HP reported that Cal-Comp had gone on to hire migrant workers directly rather than indirectly through a subcontractor. Workers expressed some level of satisfaction with the results to MWRN.

Around the same time, RBA (then EICC) announced a new audit tool, the Supplemental Validated Audit Process (SVAP), to detect forced labour. RBA reported to MWRN that they piloted the new audit tool in one of Cal-Comp's Thailand factories in early 2017. RBA also worked with member companies that source from Cal-Comp facilities in Thailand to address the recruitment issues. Electronics Watch later learned in September 2018 that SVAP and also VAP audits had been or would be conducted at both the Petchaburi and Samut Sakorn sites in 2018.

In April and May 2017, Cal-Comp workers again reported to MWRN that brokers were charging them fees of up to 300,000 Myanmar Kyat (€159) in Myanmar, and may even come to workers' residences in Thailand to demand repayment of these costs. Workers also reported having to pay for work permits, visa and health insurance costs as well as renewal costs of these documents in excess of amounts prescribed in Thai legislation and in breach of the RBA employer pays principle and code of conduct.

The workers reported that these subcontract or employment agencies had told them that they now had to switch employer to Cal-Comp itself. But in order to be directly hired by Cal-Comp they needed a new work permit issued under the Memorandum of Understanding (MOU) process between Thailand and Myanmar regarding formal cooperation in the employment of workers.<sup>7</sup> Obtaining a MOU work permit would involve a lengthy and costly process, requiring workers to first resign from Cal-Comp, travel to Myanmar and back to Thailand where they could then finally and legally be employed directly by Cal-Comp. Through this process the workers would incur additional debt and face increased risk of forced labour.

<sup>7</sup> TMemorandum of Understanding Between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation in the Employment of Workers, available at [http://www.ilo.org/asia/info/WCMS\\_160932/lang--en/index.htm](http://www.ilo.org/asia/info/WCMS_160932/lang--en/index.htm).

In early 2018, workers again reported excessive fees for new recruitment and a lengthy and cumbersome process for the so called “U-Turn” passport renewal process for those workers who had been in Thailand for four years already and whose visas were about to expire, or for workers still involved in other Thai government regularisation processes. They also reported apparently irregular and unsystematic processes for refunding workers illegitimate recruitment fees.

Electronics Watch undertook further research on the recruitment process and costs to workers late in 2017 and presented new findings to Cal-Comp, three key buyers at Cal-Comp, and the Responsible Business Alliance in March of 2018. In the weeks and months that followed, RBA reported, on behalf of its member companies, that they were addressing the findings in the Electronics Watch report. In July 2018, the RBA reported that Cal-Comp had instituted a new foreign worker recruitment process, begun a process of reimbursing foreign workers hired under the old arrangement, and had already paid all costs to be compliant with Thai administrative requirements. However, at the time RBA did not disclose results of any audits and Cal-Comp had not had any substantive engagement with MWRN despite Electronics Watch and MWRN stressing the importance of civil society collaboration.<sup>8</sup>

As a result, Electronics Watch conducted follow-up monitoring in August 2018 to verify RBA’s claims. The following report is the result of the research conducted in both 2017 and 2018.

### 3. Methodology

From August to October 2017, Electronics Watch carried out 33 individual interviews with Cal-Comp workers at two locations—20 at the Samut Sakhon plant and 13 at the Petchaburi plant—to determine whether or not they were still at risk of forced labour.

The workers interviewed had work permits (or “pink cards”) showing that, with the exception of three newly recruited workers, they had all been employed by at least four different subcontracting agencies,<sup>9</sup> before transitioning to Cal-Comp. Their jobs included production, packaging, quality control, mechanics, and line leader. They had worked at Cal-Comp from one to seven years or an average of 3.5 years.

In August 2018, Electronics Watch conducted detailed qualitative interviews through focus group discussions with 29 migrant workers from Myanmar employed at Cal-Comp’s Petchaburi and Samut Sakorn factories, including workers employed formally by Cal-Comp Precision Company Ltd. Fourteen workers were interviewed in Samut Sakorn and 15 workers in Petchaburi. Eleven of the workers interviewed were female and 18 were male.

<sup>8</sup> At the time of publication, additional disclosure of information to Electronics Watch is being discussed by all concerned parties.

<sup>9</sup> Those agencies were Te-i Limited Partnership, Natchapirin Partnership, Bat 57 Partnership, and Orm and Oil Co., Ltd at the Samut Sakorn plant, and Sarisa International Co. at the Petchaburi plant.

The workers came originally from many different locations and states in Myanmar and were of both Burman ethnicity and members of other ethnic groups. Workers were aged between 18 and 38 years of old. Only two workers interviewed reported having children, both of whom stated that their children were in Myanmar with grandparents. A minority of the workers were married.

Workers interviewed in 2018 had worked at Cal-Comp's factories (numbers 1, 2, 3, 7, 8 and 9) for between one month and six and a half years, or on average for 2.2 years. Some of them stated that they were previously formally employed by Thai sub-contract agencies and not directly by Cal-Comp such that they were unsure of the continuity of their employment status following the change of employer to Cal-Comp.

Workers interviewed worked on production lines that manufactured a number of products for a number of different brands. The only brand identified by almost all workers at the Petchaburi plant was HP, which workers said made up the bulk of all work for both migrant and Thai workers. Samut Sakorn plant workers were not clear about brands in production there.

Workers interviewed were involved in manufacturing of computer accessories or other electrical products often involving screwing, placing stickers on products, cleaning products and other circuit board or motor work. Some workers interviewed said they were involved in quality control processes. They reported making printers, scanners, photocopiers and circuit boards.

Myanmar worker smart cards have been issued for several years now by the Myanmar government prior to a worker's departure for Thailand. These cards display all related personal data of its holder as well as information related to their Myanmar and Thai recruitment agent as well as their place of employment. These smart cards revealed that interviewed workers were formally recruited through the services of 11 legally registered recruitment agents in Myanmar, and their registered or unregistered sub-agents.

Ten of the managing directors or owners from nine of these 11 Myanmar recruitment agencies were also interviewed as part of this research. Each agency reported in interview having two to 13 registered subagents working to recruit workers for them. One apparent subagent was interviewed during a meeting with the owners of a registered Myanmar recruitment agency and the owner of one Thai employment agency providing migrant worker management services to Cal-Comp was engaged in a smartphone LINE discussion. Follow up discussions and questions with Myanmar and Thai agencies were undertaken via LINE, Whatsapp and Viber applications.

### Workers and recruiters interviewed for this report

#### In 2017

- 33 workers, 30 of whom had been employed by subcontract agencies before transitioning to Cal-Comp, all migrants from Myanmar, employed one to seven years.

#### In 2018

- 29 workers, 26 of whom were directly employed by Cal-Comp, all migrants from Myanmar, employed from one month to six years.
- Eleven Myanmar recruitment agents and one subagent.
- Two members of the Myanmar Overseas Employment Agency Federation.

## 4. Background: Thai and International Standards on Migrant Worker Recruitment

### 4.1. Regulating Migrant Work in Thailand

In order to work legally in Thailand under the MOU between Thailand and Myanmar, workers from Myanmar must first apply for a labour card in Myanmar that requires four separate documents: an ID card and three recommendation letters from the worker's township, respective police station, and the head of the quarter where the worker lives.<sup>10</sup> Because of high costs caused by corruption on both sides of the border, lack of information, a lengthy processing time, and difficulties in changing employers, most migrant workers in Thailand worked without the MOU permit since the system commenced in 2003.<sup>11</sup>

However, on June 23 2017, Thailand enacted a new "Royal Ordinance on Managing the Work of Aliens B.E. 2560 (2017)" under which unregistered foreign workers in Thailand risk large fines and even prison terms if they are not employed regularly. The Royal Ordinance also increased penalties for employers who violate the rules, although these were relaxed somewhat in a 2018 revision of the Ordinance. A foreign employee without a valid work permit risked a fine up to 100,000 Thai Baht (€2,600)<sup>12</sup> or a maximum prison sentence of five years, or both.<sup>13</sup> An employer that hired foreign workers without valid work permits risked a fine up to 800,000 Thai Baht (€21,000) per worker. An employer who hired a foreign worker for work not in accordance with the specification in the work permit (i.e. the employer is different from the one named in the work permit), risked a fine from 400,000 to 800,000 Thai Baht (€10,500 to €21,000) per

<sup>10</sup> Union Aid Abroad-APHEDA, "Migrant Workers in Thailand under the new decree," July 31. 2017, available at <http://apheda.org.au/migrant-workers-thailand/>.

<sup>11</sup> US Department of State, "Thailand," in 2017 Trafficking in Persons Report, available at <https://www.state.gov/j/tip/rls/tiprpt/2017/>.

<sup>12</sup> In this report the following currency conversion is used: €1 = 38 Thai Baht.

<sup>13</sup> Chandler MHM, Emergency Decree—Administration of Alien Working B.E. 2560, available at <https://www.chandlermhm.com/emergency-decree>.

worker.<sup>14</sup> Notably, using subcontracted migrant workers is prohibited since November 17, 2017.<sup>15</sup>

## 4.2. Legal Limits of Recruitment Fees

According to the ILO Convention on Private Employment Agencies, 1997 (No. 181), the costs of recruitment should be borne by the employer, not the worker. While Thailand has not ratified this convention, the Department of Employment ruled in 2017 that employers must pay recruitment “service fees” and “costs.”<sup>16</sup> This rule later became enshrined in law under Section 49 of the Royal Ordinance on Managing the Work of Aliens B.E. 2560 (2017). This law and the related rules only apply to fees and costs in Thailand, and includes:

- All recruitment service related fees, including money and other benefits for bringing foreign workers to work in Thailand.
- Recruitment costs including document preparation, certification, and translation fees.
- Travel expenses for bringing migrant workers to Thailand.

The Department of Employment has also limited the service fees that a recruitment agency can receive from an employer to no more than 25% of the foreign worker’s wages in their first 30 days (at the rate of 310 Thai Baht daily wage, the maximum service fees per worker is 2,325 Thai Baht).<sup>17</sup>

<sup>14</sup> Chandler MHM, Royal Ordinance —Administration of Alien Working B.E. 2560, available at <https://www.chandlermhm.com/emergency-decree>.

<sup>15</sup> See also, The Notification of the Department of Employment, “Re: Prohibition Against Licensees Bringing Alien Workers to Work with Employers in Specific Business,” 17 November 2017, issued by virtue of the Royal Ordinance on Managing the Work of Aliens 2016. According to Article 2 : “It is forbidden that licensees shall bring alien workers to work in subcontracted work or subcontracted business.” Available at: <http://www.mol.go.th/sites/default/files/laws/th/888f98ce9c9f8f9fb87e3beff386d734.pdf> (in Thai).

<sup>16</sup> The Notification of the Department of Employment, “Re: Fees and Expenses that can be Collected from Employers for Services, Receipts and Expenses for Bringing Foreign Workers to Work in the Kingdom,” November 17, 2017, available at [https://www.doe.go.th/prd/assets/upload/files/bkk\\_th/dad71f56100bd039e9add33dd30a189b.pdf](https://www.doe.go.th/prd/assets/upload/files/bkk_th/dad71f56100bd039e9add33dd30a189b.pdf) (in Thai).

<sup>17</sup> Article 3 of the Notification of the Department of Employment, November 17, 2017.

<sup>18</sup> Article 5 of the Notification of the Department of Employment, November 17, 2017.

The Royal Ordinance (2017) further states that the employer may agree to pay or subsidise the following costs on the Thai side:

- Visa: 500 Thai Baht (€13) for one year
- Two-year work permit and application fee: 1,900 Thai Baht (€50)
- Health Examination and Health Insurance: 1,000 Thai Baht (€26)
- Change of employer and application fee: 1,000 Thai Baht (€26) applicable to MOU workers whose employer terminates the employment or dies, becomes insolvent, violates the law or an employment contract (e.g., non-payment, physical abuses, and unsafe or dangerous working conditions).

Migrant workers themselves are responsible for expenses incurred at the country of origin including but not limited to the passport, the overseas worker identification card, the health examination, and accommodation and food in Myanmar. Costs in Myanmar continue to be informally defined in most circumstances but according to Myanmar regulations, costs taken by registered Myanmar recruitment agents from migrant workers in Myanmar for all related recruitment processes must not exceed 150,000 Myanmar Kyat (€79).<sup>18</sup> It remains unclear whether or not this 150,000 Myanmar Kyat limit includes costs of applying for and receiving a passport. Recruitment agents and the Myanmar Overseas Employment Agency Federation suggested in interview disagreement on this issue.

The Royal Ordinance (2017) prescribes additional measures to prevent human trafficking and forced labour. For example, Article 42 prohibits recruitment agencies from demanding or receiving money or other property from migrant workers. Article 49 prohibits employers from demanding or receiving money or other property from migrant workers. Moreover, employers who confiscate workers' work permits or identification documents can be penalised by imprisonment, fines, or both.<sup>19</sup>

The HP Supply Chain Foreign Migrant Worker Standard is more protective of migrant workers than Thai law and requires "the costs and fees associated with recruitment, travel and processing of foreign migrant workers shall be covered by the supplier."<sup>20</sup> Similarly, the Responsible Business Alliance Code of Conduct states: "Workers shall not be required to pay employers' or agents' recruitment fees or other related fees for their employment. If any such fees are found to have been paid by workers, such fees shall be repaid to the worker."<sup>21</sup>

## 5. Findings 2017: Forced Labour Risks

The findings discussed in this report concern working and recruitment conditions both at the Petchaburi and Samut Sakorn factories of Cal-Comp. Only where there are contrasting differences are conditions at the two factories discussed separately, for instance as related to the minimum provincial wage levels.

In April and May 2017, Cal-Comp workers reported to MWRN that brokers were charging them fees up to 300,000 Myanmar Kyat (€159) in Myanmar, and may even come to workers' residences in Thailand to demand repayment of these costs. Workers also reported having to pay for work permits, visa and health insurance costs as well as renewal costs of these documents in excess of amounts prescribed in Thai legislation and in breach of the RBA employer pays principle and code of conduct.

The workers Electronics Watch interviewed had work permits (or "pink cards") showing that, with the exception of three newly recruited workers, they had all been employed by at least four different subcontracting agencies, before transitioning to Cal-Comp. They reported that these subcontract or employment agencies had told them that they now had to switch employer to Cal-Comp itself. But in order to be directly hired by Cal-Comp they needed a new work permit issued under the Memorandum of Understanding (MOU) process between Thailand and Myanmar regarding formal cooperation in the employment of workers.<sup>22</sup> Obtaining a MOU work permit would involve a lengthy and costly process, requiring workers to first resign from Cal-Comp, travel to Myanmar and back to Thailand where they could then finally and legally be employed directly by Cal-Comp. Through this process the workers would incur additional debt and face increased risk of forced labour.

<sup>19</sup> An English translation of the Royal Ordinance is on file with Electronics Watch.

<sup>20</sup> Specifically, HP requires the supplier to pay for the following fees: agency service fees, recruitment or placement service fees in both sending and receiving countries, airfare or fare for other mode of international transportation, terminal fees, and travel taxes, passport, visa, work and/or residence permits (including renewals), pre-deployment skills tests, certifications, medical exams or other requirements for employment by receiving country or supplier, receiving country medical exams, pre-and/or post departure training or orientation, transportation in receiving country to and from airport to supplier facility or provided accommodations, security deposits or bonds, levy or other government required fees, insurance, and contributions to worker welfare funds or government provided benefits in sending countries required to be paid by supplier. See: <http://h20195.www2.hp.com/V2/getpdf.aspx/c04484646.pdf>.

<sup>21</sup> RBA Validated Audit Program (VAP) Operations Manual, Revision 6.0.0–January 2018, available at: <http://www.responsiblebusiness.org/media/docs/CodeInterpretationGuidance.pdf>.

<sup>22</sup> Memorandum of Understanding Between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation in the Employment of Workers, available at [http://www.ilo.org/asia/info/WCMS\\_160932/lang-en/index.htm](http://www.ilo.org/asia/info/WCMS_160932/lang-en/index.htm).

## 5.1. The New Recruitment Process

After the new Royal Ordinance (2017, see Chapter 4.2) Cal-Comp workers interviewed reported that Cal-Comp's HR department told them they must resign in order to apply for a proper work permit under the MOU system between Thailand and Myanmar. After returning from Myanmar, entering into the MOU system and returning to Cal-Comp they would have to apply as new workers, thus forfeiting longevity benefits from their previous employment as subcontracted workers including the annual leave and severance pay. The workers interviewed had worked at Cal-Comp from one to seven years, an average of 3.5 years, but lost all benefits associated with their tenure.

Furthermore, some workers reported that they had lost wages during the transition process from pink card workers to MoU workers. One worker stated that he had been told to stop working on June 29, 2017 and reapplied on August 11, 2017 after receiving the work permit under the MOU. He received no formal dismissal notice but was told to sign the resignation form at the Human Resource Department. He reported that he did not receive his wages for the June 1-28 period. When he asked HR in Cal-Comp about his pay, he was told that his wages had been deposited with his subcontracting agency. Three additional workers interviewed stated that they did not get paid for the period June 1-15, 2017, under similar circumstances. As of September 30, 2017, these workers had still not been paid but Cal-Comp had promised they would investigate and negotiate with their former employers in order to secure their payment.

The workers interviewed described the lengthy MOU recruitment process they had to undertake or had undertaken already to become directly employed by Cal-Comp as follows:

- Step 1: Resign from Cal-Comp/the Thai subcontracting agency.
- Step 2: Pay 7,000 Thai Baht (€180) upfront to a Thai subcontracting agency<sup>23</sup> for the agency to provide for transport to the Thai-Myanmar border and further to a migrant worker processing and passport issuance center inside of Myanmar to start the process of correct documentation and registration under the MOU. The actual cost of transport from Thailand to Myanmar and onto a passport issuance center would perhaps be little more than 1,000 Thai Baht (€26) using public transport.
- Step 3: Apply for a passport and other required documents required for MOU employment (for Thailand) in Myanmar at a cost of at least 150,000 Myanmar Kyat (€79). Workers who have not acquired Myanmar IDs or necessary papers have to return to local civil registration office and pay extra fees and service charges to a Burmese recruitment agency to get required documents.
- Step 4: Wait for at least 15 days once a passport application had been submitted, while incurring expenses of 150,000 to 200,000 Myanmar Kyat (€79—€106) for lodging, food, and local transportation. One worker reported that he slept in a monastery.

<sup>23</sup> Workers reported they only have a choice for Sarisa International Co.,Ltd in Samut Sakhon and Sarisa International (Employment Company) Co., Ltd. in Phetchaburi as their MOU agency in the recruitment process. The two companies are located near two different Cal-Comp locations, but have the same owner.

- Step 5: Sign an employment contract (with Cal-Comp) at the Ministry of Labour in Myanmar and wait a further 10-15 days processing time at workers' own expense whilst other processes were completed to allow travel and work under the MOU in Thailand.
- Step 6: Travel to the Myanmar/Thai border and apply for a Myanmar worker overseas ID card.
- Step 7: Cross the Myanmar/Thai border and be picked up at the border by a Thai subcontracting agency (sometimes an additional trip back and forth across the border for medical examination at a border hospital may be required prior to Step 8).
- Step 8: Apply for a Thai visa at the Thai side of the Thai/Myanmar border. The visa costs were formally 500 Thai Baht (€13) for a one-year visa but around 700 Thai Baht was charged instead.
- Step 9: Travel to Cal-Comp, apply for a one-year work permit at a cost of 900 Thai Baht (€23) or a two-year permit at a cost of 1,800 Thai Baht (€46), plus a 100 Thai Baht application fee, register with a local hospital and have a medical examination and take out medical insurance, and then start work again legally with Cal-Comp under the MOU system. Pay the remaining 7,000 Thai Baht (€184) to Cal-comp's Thai subcontract agency.

## 5.2. Costs to Workers

Workers reported that they paid a Thai recruitment company in Thailand 14,000 Thai Baht (€370) in two instalments, 7,000 Thai Baht prior to their travel to Myanmar and a further 7,000 Thai Baht upon their return to Thailand. Upon arriving in Myanmar most workers reported paying 350,000 Myanmar Kyat (€185) to 500,000 Myanmar Kyat (€265) to a Myanmar recruitment agency or subagent also. Two workers paid as much as 700,000 Myanmar Kyat (€370) because the agency told them it was difficult to obtain their civil registration papers to complete the passport application process. The workers reported an additional 150,000 to 200,000 Myanmar Kyat (€79 to €106) for transportation, lodging and food in Myanmar. Thus, their costs to obtain a valid worker permit were a minimum of €634 and a maximum of €846. At Petchaburi, workers reported earnings of 305 Thai Baht (€8) per day without overtime, and 476 Thai Baht (€12) on average with three hours of overtime daily. Assuming they work three hours of overtime every day, it would take them between 55 and 76 working days to pay for a valid work permit, about the same as workers reported to MWRN in October 2016.

Workers interviewed specifically complained that Sarisa International "took over the human resources function" at Cal-Comp and "charged expensive fees on top of the official costs." Workers also complained that following the registration process a recruitment company charged them for facilitation and interpretation services when reporting to the immigration office every 90 days. Workers stated that they want Cal-Comp to help absorb these costs.

### 5.3. Debts, Working Hours and Overtime

High recruitment costs for migrant workers means that these workers are indebted before migrating to work in Thailand and during their time in Thailand until they have paid off these debts.

While no worker reported borrowing money from Cal-Comp or a recruitment agency, the three workers who were newly recruited borrowed money from their families or from money lenders in Myanmar. Some workers who had previous tenure with Cal-Comp stated they borrowed money from informal money lenders or “loan sharks,” while others said they used their savings or money set aside for remittances to supplement loans and pay for the registration process. Workers resorted to cost-saving measures to pay back loans.

Significantly, workers also reported being caught in excessive overtime dependency to pay off their debt; consequently, they had less time for rest, education, or family activities. Workers stated that they worked long hours of overtime and on Sundays in order to pay back debts related to the recruitment process. After a daytime shift ending at 16:00 workers receive a 20 minute break before overtime. While normal overtime is three hours some workers reported working from 08:00 until past midnight when production is heavy.

With leisure time at a premium, workers complained that their days are often extended on both ends as they must queue for a long time for finger scanning when clocking in and out. One worker reported: “There is only one finger scanner for 600-700 workers. So we have to arrive early to wait and queue up to 20 minutes. After finger scanning, when we enter a production line, we have to start working immediately, even while other workers are still queuing outside.” Lunch is also rushed because of the requirement to finger scan in and out. According to one worker: “I only have 40 minutes for lunch. It does not feel like eating. It is hectic at the canteen because I have to spare 20 minutes for finger scanning.”

## 6. Findings 2018: Improvements on the Thai Side, Yet Continued Forced Labour Risks

### 6.1. Progress

The following were the key areas of progress:

- **No confiscation of documents:** No workers reported any confiscation of their personal identity documents, passports, work permits, work permit receipts, bank books or ATM cards. Workers said they had to report every 90 days to immigration authorities during which time they had to provide their passport for a short time to Cal-Comp's Thai migrant worker management agencies. Any costs involved in the 90 days reporting were absorbed by Cal-Comp or the Thai agents.
- **Direct employment:** All workers but three interviewed for this updated research could provide evidence of direct employment by Cal-Comp. Of the three workers who could not provide evidence of direct employment by Cal-Comp, two workers worked for a supply chain company on circuits within the compound of Cal-Comp and were instead employed by a Thai subagent. The third worker had a Myanmar migrant worker smart card, the document issued by the Myanmar government to each worker departing the country, that named their employer as a Thai agent but also had an official Thai government work permit that identified them as being employed by Cal-Comp. The two different employer names was confusing to the worker.
- **Contracts:** All workers reported having seen and signed a contract of employment in Myanmar language and many of the interviewed workers were able to recognise or show this contract to the Electronics Watch researcher. Some workers said they had signed documents but did not understand the content due to illiteracy or had not bothered to take the time to understand or read the content.
- **Compliance with Thai migrant worker laws:** Based on the research for this report, Cal-Comp appears generally compliant with the Thai laws referred to in Section 4 for new recruits to the company. Cal-Comp was not deducting recruitment fees or fees for related recruitment services from workers, and nor were the Thai agents authorized to act on the company's behalf. In addition, Cal-Comp was reportedly paying for work permit, visa, health insurance and Thai side travel costs for workers beyond what is required under the Thai regulations. However, as discussed below, Cal-Comp and its Thai agents did not appear to comply with Thai legal limits concerning workers' costs associated with the MOU passport renewal processes as workers reported paying fees in excess of the official costs of the documents they were required to apply for as part of this process.
- **Remedy:** Most workers knew about, had heard of or had directly experienced Cal-comp's efforts to remediate excessive fees paid for recruitment and recruitment related services.

## 6.2. Remedy for Overpayment of Recruitment Fees from 2017

It was clear from interviews with all workers that some process whereby workers were remedied for excessive recruitment fees had been undertaken at Cal-Comp since around 2017. Some workers reported being interviewed by cited HR staff, Thai agency staff as well as external auditors concerning the amount of money they had paid in Myanmar or Thailand to agents or subagents.

Nine of the workers interviewed reported receiving a payment of between 3,000 to 5,000 Thai Baht (€79 to €132) paid into their bank accounts electronically from Cal-Comp. One worker insisted that he received a refund of 17,000 Thai Baht (€447) relating to fees he had paid to a Thai agent, but this was an exceptional amount. None of the workers who received the refund payment, or other workers who were aware of payments to workers at their factories, understood what this payment was for, but most suggested it was some kind of refund.

Some workers explained that a 3,000 to 3,500 Thai Baht refund was perhaps equivalent to the official 150,000 Myanmar Kyat (€79) maximum that workers pay for recruitment to Myanmar agents. Most of the nine workers who reported receiving this payment received it between three to six months after their recruitment, albeit one worker suggested that they received this money several years after recruitment. Workers were unclear therefore which groups of workers were eligible for the refund, although it was understood that those originally recruited more than two years ago were not eligible.

## 6.3. The Recruitment Process

The so called “U-Turn” MOU process described in Section 5.1. for workers to become direct employees of Cal-Comp now also applies to Myanmar migrant workers who must return home temporarily after four years to renew their passports. If they were not required to return home they could potentially be eligible to apply for citizenship in Thailand after five years of residency and work permit renewals.

For new recruits, interviewees described the process of recruitment often starting in their village or place of residency, where local community brokers, unregistered agents or registered subagents of registered recruitment agencies based in Yangon, the capital of Myanmar, will explain to villagers about job opportunities in Thailand. Many of those eventually recruited for Cal-Comp were not aware at this stage that they would be going to work either in the electronics industry or at Cal-Comp. Instead, workers reported only being told that in Thailand there was work that would allow them to earn more money than in Myanmar and remit this money to their families in Myanmar. Some workers reported paying recruitment fees even at this initial stage of recruitment, prior to arriving in Yangon where they attended an interview with Cal-Comp HR staff or Thai recruitment agency staff.

If selected for work at Cal-Comp, workers would have to undergo a health check which, once passed, would lead them onto passport processing. Many workers reported paying a significant amount of their fees already at this stage. Following application for a passport, for which some workers reported paying separately, workers would return home to their place of residence to await being called to sign a contract of employment again in Yangon. Some workers reported two or three interviews prior to selection for work at Cal-Comp, increasing their cost of travel between their place of residence and Yangon. Other workers explained they paid additional fees to ensure rapid selection for work.

At the contract signing stage, again in Yangon, many workers reported paying the final instalment of their recruitment fees. They would then return home to their place of residence and wait, sometimes for several months, before being called back to Yangon for onward travel to the Myanmar-Thai border where they would process a Myanmar government smart card. At this point they may or may not stay for some time at the border awaiting departure. Crossing over into Thailand, workers would apply for a Thai visa, have photos taken for a work permit and then attend a post arrival training session organised by the Thai Government prior to travelling onto their Cal-Comp workplace. Once at their workplace, workers could have an additional health check, complete their work permit application process and start work, sometimes after a significant waiting period.

### **6.3.1. Delays and Other Irregularities**

Interviewed workers, Myanmar recruitment agencies, as well as two members of the Myanmar Overseas Employment Agency Federation suggested that the process by which migrant workers were recruited for Cal-Comp and eventually arrived at the factory meant that the workers were subject to significant delays between the time of recruitment, contract signing, arriving at the factory and actually starting work. Workers and recruitment agents mentioned delays of up to four to five months in the recruitment process. They believed Thai agents recruited them too early in relation to when their job would start. Myanmar recruitment agencies license conditions state a worker must start their employment within two months of their recruitment and signing of the contract of employment.

Such delays led to situations of hardship for recruited workers who either had to wait in Myanmar or in Thailand without a salary to support themselves and/or without an official work permit. In other cases, interviewees suggested that work permits were issued in advance for workers processed but that actual employment did not commence until some time later. One Myanmar recruitment agency alleged that Thai agents profited from these delays through rental costs charged to new recruits given that rental properties were owned or managed by these agencies.

A significant number of interviewed workers displayed irregularities in their legal employment status as their work permit and related documents identified them as working at the wrong provincial location, such that Samut Sakorn workers were registered in Petchaburi and Petchaburi workers were registered at Samut Sakorn. This irregular employment status subjects both employers and workers to criminal sanctions (fine and/or imprisonment or both) under Thailand's employment legislation. The reason behind this irregularity was unclear, albeit one agency suggested it resulted from workers wanting to change place of employment on arrival to be close to family and friends whilst another suggested it resulted from lack of advance planning by Cal-Comp and Thai agents to adjust to factory production demands.

No workers reported receiving any pre-departure training in Myanmar concerning employment conditions in Thailand, Thai culture, what to expect on arrival and concerning basic labour rights and cultural integration issues. Most workers interviewed reported little information about the work they would come to undertake at Cal-Comp at the time of their actual recruitment by registered agents or subagents. Most interviewees stated they were only told they would receive a salary in accordance with Thai law with lots of overtime, good accommodation and they would be able to save significant amounts of money to send back to support their families in Myanmar.

### **6.3.2. Kickback Scheme**

While Thai recruitment agencies are now legally prohibited from charging migrant workers recruitment related service fees and costs in Thailand (see Section 4.2.), and those agencies supplying Cal-Comp appeared to comply with this restriction, they still received payments indirectly from the recruited workers, according to sources interviewed for this research.

Five of the Myanmar recruitment agencies interviewed stated that they were required to pay the Thai recruitment agencies in order to obtain a demand letter to supply new migrant workers or MOU U-Turn passport renewal migrant workers to Cal-Comp. If they did not pay, or did not pay enough, they would not receive the demand, the agencies reported. Leading members of the Myanmar Overseas Employment Agency Federation also confirmed this process of paying kickbacks to secure demand letters to recruit workers from Cal-Comp. The other five agencies interviewed would not answer questions about payment of kickbacks, avoided answering the questions, or denied any form of kickback payments. Some of them preferred to describe money given to the Thai employment agencies as being related to Thai side official costs such as the work permit, visa and health check, albeit they also acknowledged that Cal-Comp itself apparently covered these costs.

Competition amongst an increasing number of Myanmar recruitment agencies for a limited demand for migrant workers in Thailand—a competition that has intensified in part as a result from the closure

of Malaysia as a migration market for Myanmar migrants in 2016—pushed prices up for Myanmar agencies. Prices have increased from an estimated 3,000 to 6,000 Thai Baht (€79 to €158) to an estimated 6,000 to 12,000 Thai Baht (€158 to €316) per person supplied since 2017. Myanmar agents explained that half of the money was handed over in Thai Baht after contract signing, and the remainder paid prior to the workers' crossing into Thailand at the Myawaddy-Mae Sot border crossing. They recouped the costs paid to the Thai agents from workers by charging them higher fees or allowing sub-agents to do so on their behalf, Myanmar agents reported. Workers paid these fees in cash once they were recruited and prior to crossing over to Thailand.

The payments, or kickbacks, to the Thai agency reportedly varied depending on the Thai agency in question and its relationship with Cal-Comp management or HR staff. Myanmar agents speculated on the role of a number of named Thai and Myanmar brokers, agents and individuals they alleged had relations with other individuals in positions of power both within Cal-Comp and in local government structures. These individuals, they said, needed to be “pleased” and “kept happy” with payments of money or gifts in order for a Myanmar agent to receive a demand. Whether or not these statements imply actual corruption, it is significant in itself that Myanmar agents themselves stated that they believed the system of recruitment at Cal-Comp depended on unofficial payments and interpersonal relations.

Some Myanmar agencies also reported that they alone had to carry the risk of recruitment. These agencies stated that if a worker ran away or left employment for any reason within three months, they had to reimburse the Thai agent or Cal-Comp 3,000 Thai Baht (€79) and that Cal-Comp or the Thai agent accepted no risk or responsibility for this situation.

### **6.3.3. Cost to Workers**

All but two of the interviewed workers were recruited in Myanmar and reported payment of fees or other related recruitment expenses to Myanmar and Thai recruitment or migrant worker management agencies well in excess of the amounts that are prescribed in Myanmar and Thai employment and migrant management laws as well as RBA's Code of Conduct and Definition of Fees. All workers, with only one exception, insisted they were not provided any receipts for any payments by either Myanmar or Thai agents or subagents. One worker, however, had a receipt attached to his passport for a fee of 150,000 Myanmar Kyat (€79) which he said was paid to a registered Myanmar agent, in addition to fees he had paid to a subagent.

### **Fees for New Recruits**

A summary of recruitment expenses for new recruits as reported by workers and agents follows:

- **Passport fees: 25,000 to 250,000 Myanmar Kyat (€13 to €132).**

Workers reported paying between 25,000 and 250,000 Myanmar Kyat for the process of applying for and receiving a Myanmar passport. Sometimes these expenses were included in a package fee that workers paid to registered Myanmar agents or subagents, or unofficial subagents, but at other times workers reported paying this amount to officials or agents or passport brokers separately. Workers and recruitment agents agreed that the official cost of a passport was 25,000 Myanmar Kyat, the normal fee for efficient service was 32,000 to 35,000 Myanmar Kyat and that if a worker's personal identification documents were not in perfect condition and accurate, or original copies could not be provided, or if workers were renewing lost, expired or other kinds of former passports, prices could rise to 250,000 Myanmar Kyat. One recruitment agency denied any excessive passport costs were taken from workers by officials or agencies. Some recruitment agencies explained that additional fees were charged "under the table" so agencies could pick up the passports on behalf of their workers, who had already returned to their village or place of birth or residence after the submission of the passport application. Agencies and Myanmar Overseas Employment Agency Federation officials suggested these fees were normal practice for all Myanmar agents.

- **Agency fees: 150,000 Myanmar Kyat (€79).**

Workers reported paying 150,000 Myanmar Kyat to registered Myanmar recruitment agents as a service fee to secure their job at Cal-Comp. Most registered Myanmar recruitment agents likewise cited this figure, but the majority acknowledged that this money was paid to them not by the workers but by their registered or unregistered subagents who had already been paid by the workers for recruitment. Hence what workers described as sub-agency fees would in some circumstances also include these agency fees. Myanmar recruitment agents justified this charge to workers as being in compliance with Myanmar law, which sets a limit an agent can take from a worker for costs at 150,000 Myanmar Kyats (seemingly not including passport costs) and essential given that Cal-Comp and its Thai agents did not pay any fee to the Myanmar recruitment agents to cover related recruitment and company operating costs, or necessary because the Myanmar agencies had to pay kickbacks to the Thai agents.

- **Sub-agency fees: 300,000 to 1,200,000 Myanmar Kyat (€159 to €635).**

Workers reported paying most of the expenses or fees for recruitment to local subagents, either registered or unregistered. They reported costs between and 300,000 and 1, 200,000 Myanmar Kyat to secure employment and travel from Myanmar to Thailand for work at Cal-Comp. For the majority of workers, the fee paid was 300,000 to 500,000 Myanmar Kyat. Workers reported either paying this money all at one time or in two installments in their place of birth before the recruitment processes begun, in Yangon at the passport processing time, or at the signing of the contract of employment with Cal-Comp's authorized representative. Most Myanmar registered

recruitment agencies interviewed acknowledged that the majority of workers they recruited for Cal-Comp were actually recruited by these registered or unregistered subagents at a cost of between 50,000 and 400,000 Myanmar Kyat (€26 and €212). They stated that it was essential to use subagents for recruitment in order to recruit workers in time to meet factory timelines for demand and to overcome recruitment challenges; Myanmar law does not allow agencies to advertise publicly or in newspapers (albeit it was unclear whether agencies were allowed to advertise demand letters and work on social media, with some citing that they used social media). Registered Myanmar agents stated that they had to allow these subagents to charge workers as Cal-Comp and Cal-Comp's Thai agents did not provide any fee to Myanmar recruitment agents for recruiting migrant workers and the 150,000 Myanmar Kyat (€79) the registered agents could charge to workers was not sufficient for their operating costs and profits. One recruitment agency denied having any subagents as his agency was so popular and received only direct applications. This agency also insisted that his workers recruited for Cal-Comp paid only 150,000 Myanmar Kyat. Another agent justified the payment of higher sub-agency fees on the basis that workers themselves wanted to pay more to subagents to ensure their quicker recruitment for a limited number of work spaces at a popular factory where conditions were good and earnings high. Another agent explained that sub-agency fees were high at Cal-Comp as the factory had a strong reputation for higher potential earnings than other factories in Thailand such that it had become impossible to recruit without coming across brokers or utilizing subagents who promoted the demand for new workers at the factory. Finally, one agency explained the use of sub-agents was essential as workers did not believe Yangon based agents and preferred to rely on their own local sub-agents that were linked to the origin community.

- **Accommodation costs at border: up to 1,000 Myanmar Kyat (€0,5) per night.** Workers reported different costs of accommodation on the Thai-Myanmar border prior to travelling into Thailand during both recruitment and MOU U-Turn passport renewal processes, should it be required to stay there for any length of time. Some workers said this cost was covered in the fees they had paid to agents or subagents whilst others reported paying around 1,000 Myanmar Kyat per night for this accommodation plus their own personal food expenses.
- **Transportation costs: 20,000 to 70,000 Myanmar Kyat (€11 to €37):** Workers reported different costs of transportation during the recruitment process or MOU U-Turn passport renewal processes, likely depending on who organised this transportation for them and where they lived in Thailand. Workers reported spending from 20,000 to 70,000 Myanmar Kyat on transport costs. Recruitment agencies acknowledged that sometimes workers had to travel officially several times to Yangon as part of the recruitment process. This was to apply for, process and/or receive a passport, sign a

contract of employment and then depart. Agents often collected the passports on workers' behalf at an additional cost.

- **Bank fees: 800 to 1,500 Thai Baht (€21 to €39).** Workers reported paying from 800 to 1,500 Thai Baht for an ATM card and for opening a bank account on arrival in Thailand to Cal-Comp HR staff and/or Thai agents even though they suggested the official amount charged to open a bank account was less than what they paid.
- **Other recruitment related fees:** Most workers were unclear who had paid for the first and/or second year's work permit, their two-year visa, a health check-up in Thailand or Myanmar and transport from the Myanmar-Thai border to Cal-Comp (including one meal along the way) and whether or not these expenses were included in the money paid to agents or subagents in Myanmar. Some workers however suggested that Cal-Comp covered all these costs for workers but other workers reported paying some amount to Cal-Comp's Thai agents, particularly for years three and four of their employment at the factories. Likewise recruitment agencies interviewed suggested that Cal-Comp covered work permit, visa, health check and Thailand-Myanmar to Cal-Comp transport costs albeit some suggested that the Myanmar recruitment agent was required to provide this money to the Thai agent in the form of a payment during handover of the workers on the Thai/Myanmar border.
- **Cost of accommodation at Cal-Comp:** Workers suggested that Thai agents and Myanmar agents or subagents organised their accommodation on first arrival at Cal-Comp but it was perhaps a little more expensive and less spacious than private accommodation such that workers generally moved into their own accommodation after a short time. In addition, workers bought essential equipment like fans, bedding and cooking equipment from these agents on arrival at reportedly inflated prices through borrowing of money that they paid back after their first salaries had been paid. Workers reported paying between 700 Thai Baht (€18) per person per month for a shared room of two to five people. The fees seemed reasonable when compared to market rate for accommodation but became excessive for workers if they remained without employment if their start date of employment was significantly delayed.

Based on the research conducted by Electronics Watch with the workers at the two sites, it can be estimated that workers coming to work in Cal-Comp paid on average between €250 to €700 as recruitment fees or other related recruitment costs per person to Myanmar recruitment agents, registered Myanmar subagents, unregistered Myanmar subagents or to Myanmar government officials. This is well in excess of the amount that can be collected under both Thai and Myanmar law.

## **MOU U-Turn Passport Renewal Fees**

Workers who went through the MOU U-turn passport renewal process reported paying from 7,500 to 18,000 Thai Baht (€197 to €474) for the process to Thai agents, either prior to return to Myanmar or partly before (3,000 to 5,000 Thai Baht) and partly after (7,000 to 10,000 Thai Baht) return from Myanmar to Thailand. Recruitment agencies in Myanmar said they were unsure how much workers paid in Thailand for this process but estimated between 13,000 to 15,000 Thai Baht (€342 to €395). The process involved one or two trips back to Myanmar, depending on whether the worker waited for passport and document processing in Myanmar or returned back to Thailand whilst the processing was undertaken. Workers reported accommodation during this trip was not included in the fee they paid.

Myanmar recruitment agencies generally reported being paid around 4,500 Thai Baht (€118) by Cal-Comp's Thai agents for processing the MOU return process, and this fee included costs for applying for and receiving a new passport as well as transport costs to and from Thailand to Myanmar. All Myanmar recruitment agents stated that they did not take any other fees from workers for this process and were unclear what fees were taken from Myanmar workers by the Thai agencies, although suggested these fees were substantial. This would suggest Thai agents were profiting from excessive charges after official document costs were taken into account in breach of Thai law which allows only that Thai employers (or agents assigned to act on their behalf in recruitment activities) charge official document and process costs. It was unclear whether Cal-Comp paid Thai agents for these related document costs, but in its September 2018 response to Electronics Watch, Cal-Comp reported that it paid all documentary costs for workers.

## **6.4. Additional Findings**

While the 2018 research focused primarily on recruitment practices, workers also described their working conditions and compensation, reporting both satisfaction and complaints. Problems reported below should be read as risks of violations rather than conclusive findings and should be followed-up accordingly.

### **6.4.1. Wages and Benefits**

Interviewed workers all stated without exception that they earned either 315 or 325 Thai Baht (€8 or €9) per eight-hour day and 60 Thai Baht per hour of overtime, in compliance with Thailand's labour protection and minimum wage law for Samut Sakorn and Petchaburi Provinces. Workers were paid via electronic banking transfer to their bank accounts, for which they all reported holding a bank book and ATM card. Workers' pay slips were in Thai and Myanmar language. Social Security was deducted from their wages in accordance with rates specified by Thai law. Workers were paid once every two weeks.

Workers reported an annual bonus but did not understand the basis on which the amount of this bonus fluctuated from worker to worker. In addition workers reported an additional payment of 500 Thai Baht (€13) per month as incentive if they were not absent from work during the month and an additional 500 Thai Baht per month as night shift allowance. Workers reported a New Years gift provided by management to workers.

Workers' reports and pay slips provided to the Electronics Watch researcher showed deductions from workers' salaries that workers did not understand and were unexplainable. Sometimes the amount of deduction was exactly the same as the amount of a payment to the workers, which confused all workers. Some workers suggested this cost may be related to transport provided by the Thai agents to the workers and others suggested it may relate to the free food the factory provided to the workers.

Workers reported that Cal-Comp provided free rice and one curry to all workers at lunchtime, or during their official meal time for evening shift workers. However, almost all workers said the curry was not tasty and therefore they had to buy their own rice accompaniments at a cost of 10 Thai Baht per dish.

Workers were provided with uniforms for their work free of charge, which they had to clean themselves and return to the company if they resigned from working at the factory.

#### **6.4.2. Working Hours and Overtime**

Workers generally worked six days per week, with a rotating day off, but in exceptional circumstances, they would work seven day weeks, receiving payment twice the normal rate for the seventh day. Workers reported a nine hour basic day that included two ten-minute breaks and 40 minutes for lunch. Workers reported that length of overtime fluctuated depending on orders and seasons. During times of high production they may have up to 40 hours of overtime or more per week but at other times as little as nine hours per week.

A small minority of workers reported that their supervisor had previously threatened them that if on occasion they did not do the overtime available, which at times was lengthy, they would forfeit additional overtime for the next month. This is a potential risk of forced overtime.

Some workers complained that they felt under too much pressure to meet production targets, but none of the workers suggested there was a penalty if they did not meet the targets.

Workers also complained about finger-scanning signing in machines as being insufficient and that they had to arrive at their work stations in advance of their official time of work. As a result they were essentially working extra time, sometimes up to 30 minutes per day,

for which they were not paid. In addition, because of the waiting times at the finger-scanning machines, workers also reported that they had to rush their 40-minute limited break time in the middle of their shift to ensure they arrived back at their work station on time. It was unclear whether workers received the legally required break time of 20 minutes prior to commencing overtime of two hours or more, although workers insisted that they received a 30 minute break after commencing the overtime if the overtime was considerable in length.

### **6.4.3. Annual Leave**

Workers reported receiving annual leave of seven days per year and on related national holidays as specified by the Thai Government.

Some workers reported that their 7 days of annual leave was paid but others stated it was not paid in accordance with law. A majority of interviewed workers reported difficulty concerning the taking of annual leave at a time which would allow them to visit their families in Myanmar and complained supervisors were not flexible in allowing annual leave.

All workers reported that they were not paid for sick leave unless an official medical certificate from a registered medical practitioner and/or a hospital was provided. Thai law however does not require that workers provide a medical certificate to be paid for sick leave unless that leave is more than three days in length<sup>24</sup>.

### **6.4.4. Young Workers**

Interviewed workers explained that whereas previously migrant workers as young as 15 years old would work at the factory if they held passports or other identity documents suggesting they were 18 years or older, all of these workers had now reached the age of 18 and there were no longer young workers recruited at the factory due to stricter policies.

### **6.4.5. Occupational Health and Safety**

Some workers reported that welding or other use of chemicals in cleaning departments required use of masks and that sometimes workers felt dizzy as the smell was bad and chemicals were inhaled. Workers said they did not know the nature of these chemicals and could not name them. Furthermore, workers reported being provided a limited amount of masks per month after which they had to purchase additional masks themselves at a minimal cost.

### **6.4.6. Sanitary Conditions**

Workers reported that the sanitary conditions of restrooms as well as adequacy of water was no problem. However almost all workers insisted that because of provision of two ten-minute breaks for workers on day and night shifts at the same time, there were not

<sup>24</sup> Thai Labour Protection Act B.E. 2541, Chapter 2, Section 32.

enough toilets for workers and this could lead to disputes with supervisors if workers were slow to return to their work stations after these breaks. In addition, a number of interviewed workers expressed dissatisfaction with a toilet token system such that if the tokens were all used up, workers would sometimes have to wait excessive time for the toilet.

#### 6.4.7. Grievance Channels

Workers reported few effective channels to voice complaints or seek remedies for workplace conflict, disagreements or dissatisfactions. However, workers did report that the workplace had a complaint box and occupational health and safety committees and officials. Workers further complained that when guests or senior management came to the factory floor, supervisors would change their behaviour to impress them such as by treating the migrant workers with more kindness and refraining from using harsh words. Some workers suggested that management organised workers to talk to social auditors and told them how to respond to auditors' questions.

## 7. Recommendations

Cal-Comp and the buyers should ensure that all migrant workers are ensured decent work in accordance with domestic and international standards, that all workers are free of any recruitment-related debt and, in accordance with RBA's code of conduct, that the employer pays for all recruitment related fees and expenses.

Towards this end Electronics Watch makes the following recommendations to Cal-Comp, its buyers, and related stakeholders in relation to its employment of migrant workers from Myanmar, albeit similar standards should apply to migrant workers of all nationalities employed by Cal-Comp and New Kinpo Group across its supply chains.

Electronics Watch strongly urges Cal-Comp and relevant other parties to work constructively and transparently with the Migrant Worker Rights Network (MWRN) or equivalent civil society organisations and independent experts familiar with migration issues to ensure access to workers to monitor compliance in the factories and to provide feedback on audit findings, educate workers about their rights, and develop solutions cooperatively and interactively.

A summary of the following recommendations and the associated findings are included in Annex I.

## Core Recommendations

### **1. Ensure migrant workers pay no recruitment related service fees or expenses whether in Thailand or in Myanmar in accordance with RBA's code of conduct on ethical recruitment and definition of fees. In case workers incur other allowable fees, these fees must be explained clearly and workers must be provided receipts for all costs incurred.**

- 1.1. Calculate the full cost of migration. All registered agents and subagents involved in recruitment processes should be assured reasonable payment for their services to ensure a sustainable business model that allows them to operate without charging additional fees from workers.
- 1.2. Recognise the risks of working through recruitment agencies. Either ensure Cal-Comp recruits migrant workers directly as allowed under Thai law without utilising the services of Thai recruitment agencies, or otherwise ensure more effective oversight of all registered agents and subagents involved in recruitment processes including through audits, capacity building and certification.
- 1.3. Create proper and reasonable transparency whereby origin and destination country recruitment agencies have full information on recruitment costs paid by Cal-Comp to prevent misunderstandings and ensure fair budget allocations between all parties.

### **2. Establish systems to ensure excessive recruitment related fees or expenses paid by workers can be reported, remedied in full and, in the future, prevented more effectively.**

- 2.1. Monitoring to ascertain levels of fees paid should commence at the initial recruitment stage and continue periodically until approximately 6-12 months following a worker's arrival at the Cal-Comp facility.
- 2.2. Reimbursement of recruitment-related fees must be prompt and equitable and must be available to all workers employed by Cal-Comp. It should not depend on workers' production role or the brand associated with their work.
- 2.3. Reimbursement of such fees should not require a worker to show receipts. Recommended best practice is to provide reimbursements at an agreed rate, independent of receipts, while allowing the employer and agents to submit proof that workers have not paid recruitment related fees and expenses. An agreed rate can take into account, for instance, available research on average recruitment related costs in a locality or sector of work.
- 2.4. Communicate clearly to all workers the basis upon which reimbursement of fees are provided and the specific fees that are eligible for remediation.

**3. Ensure all workers recruited to work at its facilities are aware from the first stages of their recruitment of the conditions of work, the wages and benefits, conditions attached to their recruitment and employment, and all related costs involved.**

3.1. All workers recruited should be provided free of charge, in line with RBA standards, pre-departure training according to the most relevant syllabus developed locally prior to arrival in Thailand.

**4. Adjust recruitment practices to ensure no worker recruited for work is subject to a significant waiting time prior to starting employment at the factory.**

**5. Guarantee the legality of all workers' employment status by ensuring they are employed at the location stated on their work permit.**

**Recommendations Based on Additional Findings (Section 6.4.)**

6. Ensure all overtime worked is voluntary and record workers' consent to overtime through appropriate means to ensure compliance on each occasion when overtime is undertaken.
7. Do not make any unlawful deductions for unexplained costs from workers' salaries and explain all deductions clearly to workers.
8. As long as workers comply with related processes for reporting sick leave, pay employees for the first two days of sick leave without a medical certification.
9. Educate workers on OHS risks in the workplace and make sure workers are familiar with risks of chemicals used and provided free of charge all related personal protective equipment required to work safely.
10. Reduce the time workers must queue to scan their fingers when entering or exiting work and ensure workers are paid for all time when they are required to be at the workplace or at their work stations.
11. Ensure that workers are paid a living wage to reduce the necessity of excessive overtime.
12. As migrant workers have the right to a family life, ensure that opportunities are provided for their return home to country of origin for an adequate amount of time on a yearly basis.
13. Ensure adequate access to toilets and restroom facilities at peak time of usage and abolish any toilet token system preventing workers from using the toilet during working hours.

## Annex I: Summary of 2018 Findings and Recommendations

The following section offers a synopsis of the latest (2018) findings and recommendations of this report. It is intended as a tool to guide a discussion of priorities and next steps to promote improvement. The summary highlights findings that intersect with legal requirements that concretely define employers' responsibilities. It also recommends steps companies should implement to resolve problems, even when those extend beyond legal requirements. The full recommendations are stated in Section 7. The sections where the issues are explained fully are referenced in the table. For convenience, the following symbols categorise findings and recommendations.

Electronics Watch Classification of Monitoring Findings	
This symbol means that the issue poses serious, ongoing, or imminent harm to workers' health, livelihood, or wellbeing and must be addressed urgently to mitigate or prevent such harm. These issues may also be indicators of core issues (see below).	
This symbol indicates core issues that cause or contribute to wider violations of labour rights or safety standards and/or unsafe and poor working conditions. Core issues include, but are not limited to, reprisals against workers who complain or seek to make their voice heard and violations of the ILO core labour standards, which consist of a set of enabling rights that create the conditions for workers to promote and realise decent conditions at work.	
This symbol refers to issues that relate to legal requirements at the site of production.	
This symbol refers to conditions and practices that harm workers, but are not illegal. They may or may not be violations of voluntary codes or other standards.	
This symbol means that the issue has been identified in previous research or monitoring reports and appears to be uncorrected.	

	Issue	Recurrent	Core or urgent	Legal reference	Recommendation
1. Freedom of Employment	1.1. Document confiscation (6.1) • No worker reported confiscation of documents			Article 7, 8 and 10 of the Labour Contract Law	
	1.2. Employment contracts (6.1) • All workers reported signing contracts in the Myanmar language				
	1.3. Recruitment fees (6.3.2. and 6.3.3.) • Myanmar agencies reported “kick-back” fees to Thai agencies in order to receive demand letters. They reported passing costs on to workers. • Workers reported paying passport fees, agency fees, subagency fees, accommodation costs, transportation costs, bank fees, and other fees as part of a new recruitment of MOU passport renewal process. These fees were in excess of legal limits and RBA Code requirements. • All but one worker reported not getting any receipts for payments to either Myanmar or Thai agents.			Section 49 of Royal Ordinance (2017) and RBA Definition of Fees  Myanmar Ministry of Labour, Immigration and Population notice on fees that can be charged to workers migrating overseas	 <b>Ensure migrant workers pay no recruitment related fees or expenses.</b> • Calculate full cost of recruitment • Ensure reasonable payment for services of recruitment agents and subagents when utilised • Ensure more effective oversight of all registered agents and subagents • Ensure Cal-Comp's payments of recruitment costs are transparent to origin and destination country recruitment agencies to facilitate fair budget allocations between all parties.
	1.4. Reimbursement of fees (6.1. and 6.2.) • Most workers knew about Cal-Comp reimbursing fees. • No worker understood what the refund was for. • Workers reported waiting 3-6 months and having to present receipts to get the refund.				<b>Establish systems to reimburse workers, excessive recruitment related fees and expenses, promptly, transparently, and equitably.</b> • Do not require receipts for reimbursement. • Communicate the basis for reimbursements clearly to all workers.
	1.5. Recruitment process (6.3.1.) • No workers reported pre-departure training in Myanmar. • Workers reported delays of 4-5 months between their contract signing and start of work. • Some work permits identified the incorrect factory location.				<b>Ensure all workers are aware of all conditions of employment and recruitment from the first stage of recruitment.</b> • Offer full pre-departure training in Myanmar.  <b>Adjust recruitment practices to ensure recruited workers are not subject to significant waiting time prior to starting employment.</b>  <b>Ensure work permits state the correct location of employment.</b>

	Issue	Recurrent	Core or urgent	Legal reference	Recommendation
2. Wages and Benefits	2.1. Minimum wages (6.4.1.) <ul style="list-style-type: none"> <li>All workers reported wages, overtime, and social security deductions in compliance with the law.</li> <li>Workers did not understand why the annual bonus varies from worker to worker.</li> </ul>			Labour Protection Act 2541	 Ensure workers understand all bonuses.
	2.2. Pay slips (6.4.1) <ul style="list-style-type: none"> <li>Workers did not understand deductions on pay slips.</li> </ul>				Explain all deductions on payslips clearly to workers through appropriate means.
3. Working Hours & Leaves	3.1. Hours (6.4.2.) <ul style="list-style-type: none"> <li>Workers reported in excess of 40 hours overtime per week during high production periods.</li> <li>A small number of workers reported having to perform overtime during high production periods under threat of being deprived overtime during low production periods.</li> <li>Workers complained about queues at finger-scanning machines, requiring them to arrive at work in advance of their start time, a period for which they were not paid.</li> </ul>			Labour Protection Act 2541 Sections 24 and 25	<p> Ensure overtime does not exceed 36 hours per week except in exceptional circumstances or as otherwise allowed by law.</p> <p> Ensure overtime is voluntary and ensure workers' consent to overtime is recorded on each occasion.</p> <p>Further reduce the time workers must queue when entering and exiting work and ensure all time when workers are required to be at work is paid.</p>
	3.2. Leaves (6.4.3.) <ul style="list-style-type: none"> <li>A majority of workers reported not being able to take their annual leave at one time in order to visit families in Myanmar.</li> <li>All workers reported not being paid for sick leave without a medical certificate.</li> </ul>			Thai Labour Protection Act 2541, Section 32	<p>Ensure workers have the opportunity to travel home to Myanmar for an adequate amount of time annually.</p> <p> Provide two days paid sick leave without medical certification.</p>

	Issue	Recurrent	Core or urgent	Legal reference	Recommendation
4. OSH and Sanitary Conditions	4.1. OSH (6.4.5.) • No worker could name the chemicals they used or knew about the impact on their health even though some workers reported occasional dizziness. • Workers reported being provided with a limited number of masks per month, but having to purchase additional masks if necessary.			Labour Protection Act 2541 Chapter 8	 Educate workers on OHS risks and ensure they are familiar with the chemicals and provided all PPE free.
	4.2. Sanitary conditions (6.4.6.) • Workers reported clean restrooms and access to potable water. • Workers also reported insufficient numbers of toilets to accommodate workers who take breaks at the same time.				Ensure adequate access to toilets and restroom facilities at peak time of usage.

