



Decision to exclude Luthai Textile Co. Ltd. August 2018

Summary

KLP and the KLP Funds (hereafter, "KLP") have decided to exclude the company Luthai Textile Co. Ltd. (hereafter, "Luthai") from their investments due to unacceptable working conditions at their production facilities. The decision is mainly based on the Council on Ethics` recommendation to the Government Pension Fund Global (GPFG), published on July 10, 2018¹, when Norges Bank excluded the company.

Luthai is a Chinese textile company specializing in the production of cotton, yarn, fabrics and clothing. Luthai operates production facilities in China, Vietnam, Cambodia and Myanmar. Luthai is listed on the Shenzhen stock exchange in China.²

KLP was not invested in Luthai Textile Co. Ltd. at the time the exclusion decision was made.

Recommendation from the Council on Ethics

The Council on Ethics recommendation has considered whether "... *there is an unacceptable risk that Luthai contributes to or is itself responsible for systematic violations of internationally recognised human rights and labour rights.*"³ The Council on Ethics guidelines state that there needs to be a clear relation between the company`s operations and the violation in order for there to be an unacceptable risk that the company is involved in labor rights violations,. In other words, the company must either have contributed to the violations or had information about the violations without seeking to prevent them.⁴

The UN Convention on Civil and Political Rights (article 8.3) and ILO`s Convention 29 on forced labor (article 2.1) forms the basis for considering whether gross or systematic violations on human rights are occurring.

The Council on Ethics recommendation states that:

¹ [The Council on Ethics recommendation to exclude Luthai Textile Co Ltd from the GPFG](#)

² [Luthai Textile Co Ltd webpage](#)

³ [The Council on Ethics recommendation to exclude Luthai Textile Co Ltd from the GPFG](#)

⁴ [Guidelines for observation and exclusion of companies from the Government Pension Fund Global](#)

The Council considers that systematic human rights violations within a company's own operations do not occur by accident, but are a consequence of the way the company organises its business. In this case, it appears as though the many different violations of and restrictions on the employees' statutory rights are intended to reduce the company's operating costs. Executives at Luthai are also managers at its subsidiaries. The parent company is therefore obviously aware of and accepts the working conditions at its own factories. This must be assumed to include widespread failures to comply with the company's own guidelines and statutory provisions covering the working environment. In the Council's opinion, this reinforces the impression that rights abuses are not accidental, but are an established and ingrained practice on the part of the company.⁵

The recommendation to exclude Luthai is based on the Council on Ethics own investigations into the working conditions at Luthai's production facilities, which in KLPs view further strengthens their conclusions:

The Council on Ethics' recommendation is based on its own investigations into working conditions at Luthai's garment factories in Cambodia and Myanmar from 2015 to 2018. The Council considers that labour rights violations have been extensive, particularly at the factory in Myanmar. The conditions reported by the workers include overwork driven by unreasonably high production quotas, a lack of rest breaks, high temperatures in the factory premises, widespread harassment by supervisors, and restrictions on employees' use of toilet facilities and access to drinking water. Employees are threatened with dismissal if they do not work overtime or meet production quotas, and there are unlawful restrictions on and wage deductions for sick leave and holidays.

The use of young people below the age of 18 under the same terms and conditions as adults, extensive use of temporary contracts, which are, in some cases, unlawful and which are used to pressure employees into accepting infringement of their rights and restrictions on their freedom of association, appear to occur at both the factories.⁶

Additionally, the Council on Ethics emphasizes the fact that measures previously instigated by Luthai have not led to lasting improvements in the working conditions at their factories. The labor rights violations are deemed reoccurring, given the fact that violations uncovered by the Council on Ethics at the factory in Cambodia in 2015 were still taking place in 2016. The Council on Ethics consider the risk of future gross violations of human rights to be high, thereby recommending the company to be excluded from GPFs investments.

A more detailed analysis of the case is available in the publicly disclosed recommendation.⁷

⁵ [The Council on Ethics recommendation to exclude Luthai Textile Co Ltd from the GPFs](#)

⁶ [Ibid](#)

⁷ [Ibid](#)

KLPs guidelines and analysis

KLP defines labor rights as a separate exclusion criterion, consistent with its status as a separate pillar under the UN Global Compact.⁸ This approach differs from that of the Ethical Guidelines for the GPF, which incorporate labor rights cases into the exclusion criterion for serious or systematic human rights violations. However, this distinction is more important in theory than in practice, as serious or systematic labor rights abuses often overlap with human rights violations. For example, forced labor is a violation of both labor rights, under the ILO Forced Labor Convention (No. 29),⁹ and human rights, under the International Covenant on Civil and Political rights¹⁰ and the International Covenant on Economic, Social, and Cultural Rights.¹¹

Luthai Textile Co. Ltd. was not part of KLPs investments as of August 29, 2018, and therefore KLP has not analyzed the company prior to the publication of Norges Banks decision to exclude the company on the 10th of July 2018.

Luthai could become part of KLPs investment universe in the future, either if KLPs investment universe is expanded, or if the company for some reason is included in the current investment universe. Therefore, it is common practice for KLP to analyze companies on the basis of the Council on Ethics recommendations regardless of whether the company is part of KLPs investment universe or not. If KLP reach the same conclusions as the Council on Ethics, the company becomes part of KLPs list of excluded companies. This prevents Luthai Textile Co. Ltd. from becoming a part of KLPs investment universe in the future.

Paragraph 6.3 of KLPs *guidelines for KLP as a responsible investor* state that: "*KLP should exclude companies from its investments where there is an unacceptable risk that they could contribute to or be responsible for... serious or systematic violations of labour rights*"¹²

The reasoning behind the Council of Ethics recommendation to exclude Luthai is well grounded and based on extensive sources. Therefore, KLP see no reason to deviate from their recommendation.

Recommendation

KLP and the KLP Funds exclude the company Luthai Textile Co. Ltd from their investments due to an unacceptable risk of the company contributing to labor rights violations.

⁸ [Un Global Compact principles](#)

⁹ [ILO forced labor convention](#)

¹⁰ [International Covenant on Civil and Political rights](#)

¹¹ [International Covenant on Economic, Social, and Cultural Rights](#)

¹² [KLPs guidelines for KLP as a responsible investor](#)