

UNOFFICIAL TRANSLATION

To Norges Bank

26 June 2024

Recommendation to discontinue observation of Supermax Corp Bhd

Summary

In February 2022, the Council on Ethics recommended that Malaysian company Supermax Corp Bhd be excluded from the Norwegian Government Pension Fund Global (GPF) due to an unacceptable risk that the company was contributing to human rights abuses. In June the same year, Norges Bank decided to place Supermax under observation.

At the close of 2023, the Fund's shareholding in the company was worth USD 2,480.

Supermax is a Malaysian company that produces rubber and latex gloves. The Council's recommendation was based on reports of extremely poor living and working conditions for migrant workers at the company's production facilities in Malaysia.

During the observation period, Supermax reported that it has implemented numerous measures to improve conditions for migrant workers. In September 2023, furthermore, the US authorities lifted import restrictions on Supermax's products because the conditions that had led to the company being blacklisted due to the risk of forced labour had been rectified.

The US authorities' rescinding of import restrictions on the company's products combined with the company's disclosures about the measures it had implemented, could indicate that conditions for workers at Supermax's production facilities have improved.

The Council recommends that its observation of Supermax be discontinued.

Contents

1	Introduction	1
	1.1 Matters considered by the Council	1
2	Background	2
3	The Council's observation	2
4	Information from the company	4
5	The Council's assessment	4

1 Introduction

In June 2022, Norges Bank announced its decision to place Supermax Corp Bhd¹ under observation for a period of two years due to an unacceptable risk that the company was contributing to serious human rights abuses. The decision was based on the Council on Ethics' recommendation that the company be excluded. The Council's recommendation related to living and working conditions for migrant workers at the company's production facilities in Malaysia.

Norges Bank took the view that the measures intended to improve living and working conditions for migrant workers that the company had previously announced made it difficult to predict developments forward in time. The two-year observation period enabled the Council to monitor whether the measures reduced the risk of norm violations to an adequate degree.

Supermax produces rubber and latex gloves. The company has three subsidiaries and 12 production facilities in Malaysia. Supermax employs almost 1,600 people, of which just under 1,400 are foreign migrants.²

At the close of 2023, the GPF's shareholding in the company was worth USD 2,480. Supermax is listed on the Bursa Malaysia stock exchange.

1.1 Matters considered by the Council

Pursuant to section 5(7) of the Guidelines for the Observation and Exclusion of Companies from the Government Pension Fund Global (the ethical guidelines), the Council may recommend that Norges Bank revoke its decision to place a company under observation or excluded from investment by the GPF if new information comes to light.³

¹ Issuer ID: 145641

² Supermax Annual Report 2023, <http://www.supermax.com.my/html/filedownload.aspx?file=1-%20ANNUAL%20REPORT%202023%20.PDF>

³ Guidelines for the Observation and Exclusion of Companies from the Government Pension Fund Global (GPF): https://www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/2022.09.05_gpfg_guidelines_observation_exclusion.pdf

2 Background

The Council's original recommendation was based on publicly available information detailing extremely poor living and working conditions for the company's employees. Due to the Covid-19 pandemic, it was not possible for the Council to undertake its own investigations into the working conditions concerned.

The allegations against the company were wide-ranging and included extremely long working hours, an extensive system of punishments and fines, restrictions on the employees' freedom of movement, confiscation of identity papers and bank cards, debt bondage and poor living conditions. Up until 2021, the workers themselves had paid high recruitment fees. In 2021, the US Customs and Border Protection (CBP) agency announced a ban on the import into the USA of goods from Supermax and the company's subsidiaries. The CBP had investigated the company and had identified 10 out of the ILO's 11 indicators of forced labour. Canada also halted imports from the company. For a long time, Supermax denied these norm violations.

The Council attached importance to the fact that the way the workers were being treated verged on forced labour and that the workers were in a vulnerable position. The Council also attached importance to the fact that Supermax declined to furnish information about the matter. Although the company initiated several measures to improve the workers' conditions, the fact that Supermax did not publish or share information about their actual implementation was also challenging. Since the company was not communicating with the Council, it was difficult to assess whether Supermax had, in practice, established a system that was capable of uncovering, preventing and rectifying serious norm violations. It was against this backdrop that the Council concluded that the risk of the company continuing to contribute to human rights violations was unacceptable.

3 The Council on Ethics' observation

The Council has not carried out an investigation into the company's labour practices or working conditions at the company's facilities. The Council notes that the CBP lifted import restrictions on Supermax's products in September 2023,

“due to successful remediation of forced labor indicators in the company’s supply chain.”⁴

Supermax is also reporting more extensively on the measures the company has implemented to improve conditions for its workforce. The company discloses that it has paid out a total of RM 26.22 million in remediation to workers who had previously paid fees and other recruitment-related costs. Supermax has also issued press releases encouraging former migrant workers to seek such compensation. Furthermore, Workers’ Committees have been established to facilitate communication and improve relations between employees and management. The committee comprises workers from different nationalities included “outsourced workers”.⁵

According to the company, migrant workers are now offered permanent employment (open-ended contracts) and the company has established a grievance mechanism that is managed by an independent third party “to ensure a transparent and confidential mechanism for reporting and addressing concerns.” Supermax also reports that the living quarters have been improved and brought up to an international standard.⁶ In August 2022, the company performed a “forced labour audit” in relation to ILO indicators for forced labour. According to Supermax, the audit found no non-conformances.

Supermax states that the company adheres “to both local and international standards, including Malaysian labour laws, the UN Guiding Principles on Business and Human Rights, and the International Labour Organization’s (“ILO”) 11 Indicators of Forced Labour. These frameworks serve as guiding principles in our commitment to promoting and protecting the rights of our workers.”⁷

The Council is not aware that any new allegations relating to poor working conditions have been levelled at the company.

⁴ U.S. Customs and Border Protection, CBP modifies Withhold Release Order against Supermax Corporation Bhd. and its subsidiaries, 19.9.2023, <https://www.cbp.gov/newsroom/national-media-release/cbp-modifies-withhold-release-order-against-supermax-corporation>

⁵ Supermax Annual Report 2023, http://www.supermax.com.my/html/annual_reports.aspx

⁶ Supermax CEO morning Brief: Supermax completes refurbishment of Workers’ accommodation, 3.6.2022, http://www.supermax.com.my/html/latest_news_details.aspx?ID=1062&Type=News

⁷ Supermax Annual Report 2023, p 44.

4 Information from the company

The Council has contacted Supermax requesting more information about how the company is working to prevent labour rights violations. However, the company has not replied.

5 The Council's assessment

In this case, the Council has emphasised US authorities' lifting of import restrictions on the company's products. Furthermore, the Council notes the company's own disclosures concerning the measures implemented to improve conditions for migrant workers. This could indicate that conditions for workers at Supermax's production facilities have improved, and that the risk of the company contributing to serious or systematic human rights abuses no longer unacceptable.

6 Recommendation

The Council recommends that its observation of Supermax be discontinued.

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