2009

# Fair Labor Association
# Independent External Monitoring Report

**COMPANY:** Chenfeng Group
**COUNTRY:** China
**FACTORY CODE:** 540015165H
**MONITOR:** Lynn Zhang, Gavin Wu
**AUDIT DATE:** November 6, 2009
**PRODUCTS:** Sportswear
**PROCESSES:** Cutting, Sewing, Final Assembly, Packing
**NUMBER OF WORKERS:** 340

For an explanation on how to read this report, please visit the FLA website here.

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## Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses

WBOT.5 Employers shall provide all legally mandated holidays, leave, benefits and bonuses, such as official holidays, annual leave, sick leave, severance payments and 13th month payments, to all eligible workers within legally defined time periods. In addition, all leave and bonuses shall be calculated correctly. (S)

**Noncompliance**

**Explanation:** Based on the review of insurance receipts from August 2009 to October 2009 and information gathered through worker and management interviews, it was found that the factory provided pension, unemployment insurance, maternity insurance, and medical insurance to 110 out of all 340 employees.

Legal Reference: Article 73 of China Labor Law

**Plan Of Action:** The factory has distributed information about social security in the factory to make sure workers participate in social security. Those who do not want to participate in social security have submitted an application stating that they do not want insurance. The factory will try to persuade workers to join the social security insurance program to improve the rate of workers covered by insurance.

**Deadline Date:** 11/25/2009

**Supplier CAP:** The factory has provided work-related injury insurance to all workers. According to the provisions of the local labor bureau, maternity insurance cannot be paid separately, so the factory will undertake part of the cost of maternity for the women who do not participate in social security. The factory has distributed information about social security to the workers to encourage them to participate in social security. For those who do not want participate in social security, the factory has submitted the application forms that state they do not want insurance.

**Supplier CAP Date:**

**Action Taken:** All employees have industrial injury insurance at present; workers who do not want to participate in social insurance must fill out an application form showing that they want to defer social insurance. The participation rate had reached 64% in July 2011. By July 2012, the participation rate had reached 70%.

**Plan Complete:** Yes

**Plan Complete Date:** 07/31/2012

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## Wages, Benefits and Overtime Compensation: Worker Wage Awareness

WBOT.22 Employers shall make every reasonable effort to ensure workers understand the wages, including the calculation of wages, incentives systems, benefits and bonuses they are entitled to in a factory and under applicable laws. To this end, employers shall communicate orally and in writing to all workers all relevant information in the local language or language(s) spoken by the workers, if different from the local language. (P)

**Noncompliance**

**Explanation:** Based on interviews with workers, it was found that 90% of workers interviewed were unaware of their wages and benefits.

Legal Reference: Article 8 of China Labor Contract Law

**Plan Of Action:** We have revised the training procedure, and will train new employees on payment and benefit policies. We will also post this information in the factory facility.

**Deadline Date:** 01/25/2010

**Action Taken:**

**Plan Complete:** Yes

**Plan Complete Date:**

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## Wages, Benefits and Overtime Compensation: Posting Notices

WBOT.23 All notices that are legally required to be posted in the factory work areas shall be posted. All legally required documents, such as copies of legal code or law, shall be kept at the factory and available for inspection. (P)

**Noncompliance**

**Explanation:** On-site observation found that labor law and related health and safety regulations were not posted in the factory facility.

Legal Reference: Article 4 of China Labor Contract Law.

**Plan Of Action:** We have posted the labor law and related health and safety regulations in the factory facility immediately as of December 25, 2009.

**Deadline Date:** 11/25/2009

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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## Freedom of Association: Right to Freely Associate

FOA.2 Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers. (S)

**Noncompliance**

**Explanation:** FLA Comment: The Chinese constitution guarantees Freedom of Association (FOA); however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union: the All China Federation of Trade Unions (ACFTU). According to the ILO, many provisions of the Trade Union Act are contrary to the fundamental principles of FOA, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. However, the government has introduced new regulations that could improve the functioning of the labor relations mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. Trade unions also have an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.

**Plan Of Action:** We have a labor union in the company and workers have the right to participate. According to The Trade Union Law of the People's Republic of China, trade union committees shall be elected in the factory by either general assemblies or representative assemblies. The factory will establish a dialogue system between the factory and the workers. The factory and the workers will arrange a meeting at least once every 6 months. They will also have additional meetings when possible. The union representative election is, according on The Trade Union Law of the People's Republic of China, held in our factory.

**Deadline Date:** 11/25/2009

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|---|---|
| **Action Taken:** | There has been a federation of trade unions established in the factory. Worker representatives of this trade union were elected by workers themselves. Here is the procedure of the election:<br><br>1. Before the election, notice will be posted in the bulletin of the factory, informing the workers that they have the right to elect themselves or one of their coworkers as workers' representatives.<br><br>2. Workers elect their representatives from within their working teams.<br><br>3. The number of representatives in this factory shall account for 5% of the total number of workers in the factory, and the representatives shall include workers, technicians, and factory management personnel.<br><br>4. The elected worker representatives will elect the workers' committee members.<br><br>5. The workers' committee members' list will be posted as a public bulletin for a week. If there is no dissent, the list will come into effect. The HR department will provide the training to the workers once per year on FOA and the election procedure. |
| **Plan Complete:** | Yes |
| **Plan Complete Date:** | 11/25/2009 |

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## Harassment or Abuse: Discipline/Progressive Discipline

H&A.2 Employers shall have a written system of progressive discipline (e.g., a system of maintaining discipline through the application of escalating disciplinary action moving, for instance, from verbal warnings to written warnings to suspension and finally to termination). Any exceptions to this system (e.g., immediate termination for gross misconduct, such as theft or assault) shall also be in writing and clearly communicated to workers. (P)

**Noncompliance**

**Explanation:** Based on review of the disciplinary procedure and information gathered through interview with factory management, it was found that there was no written disciplinary procedure for managers, supervisors, or fellow workers if engaged in any physical, sexual, psychological, or verbal violence, harassment or abuse.

**Plan Of Action:** We have revised our disciplinary procedure before November 25, 2009; now there are written procedures regarding physical, sexual, psychological, and verbal violence, harassment, and abuse.

**Deadline Date:** 12/25/2009

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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## Harassment or Abuse: Discipline/Review of Disciplinary Action

H&A.3 The disciplinary system shall include possibilities for workers to have disciplinary action imposed on them reviewed by someone at a higher managerial position than the manager who imposed the disciplinary action. In addition, such a system shall include the ability of a worker to appeal and/or question any disciplinary action against him or her and/or have a third party of his or her choice present when the disciplinary action is being imposed. (P)

**Noncompliance**

**Explanation:** Based on review of the disciplinary procedure and information gathered through interviews with factory management, the disciplinary system did not include the ability of a worker to have a third party of their choice present when a disciplinary action was being imposed.

**Plan Of Action:** We have revised our disciplinary procedure as of November 25, 2009 and established the disciplinary system. The workers can complain to the trade union, general manager, or Chairman of the Board. The disciplinary system also includes the ability of a worker to have a third party of their choice present when the disciplinary action is being imposed. The "third party" means a representative of the trade union.

**Deadline Date:** 12/25/2009

**Action Taken:**

**Plan Complete:** Yes

**Plan Complete Date:**

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**Non-Discrimination: Recruitment and Employment Practices (Job Advertisements, Job Descriptions, Evaluation Policies)**

D.3 Recruitment and employment policies and practices, including job advertisements, job descriptions, and performance/job evaluation policies and practices shall be free from any type of discriminatory bias. (S)

**Noncompliance**

**Explanation:** Age discrimination and residential discrimination for recruitment of electricians was found in recruitment advertisements posted at the entrance of the main production building. The advertisements specified workers aged 20-30 years old and [City name] residents.

Legal References: Article 20 of Provisions on Employment Services and Employment Management

**Plan Of Action:** We have taken down the recruitment advertisements, and we plan to train all the relevant workers on non-discrimination policy in 2010.

**Deadline Date:** 01/25/2010

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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## Non-Discrimination: Health Status

D.10 Employers shall not, on the basis of a person's health status, make any employment decisions that negatively affect the person's employment status, including decisions concerning recruitment, termination, promotion, or assignment of work, unless such decision is dictated by the inherent requirements of the job or a medical necessity to protect the worker and/or other workers. (S)

**Noncompliance**

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|---|---|
| **Explanation:** | The Recruitment Management System Workers' Handbook states that the factory would not recruit workers who had some kinds of communicable diseases or failed medical examinations.<br><br>Legal Reference: Article 30 of China Employment Promotion Law |
| **Plan Of Action:** | We have revised our disciplinary procedure as of December 11, 2009, and we plan to have training on non-discrimination policy for all the relevant workers in 2010. |
| **Deadline Date:** | 01/25/2010 |
| **Action Taken:** | The factory has deleted all the discriminatory clauses in the job advertisements. The policy of non-discrimination has been established. The training of this policy is provided to the workers once per year by the staff of the HR department. |
| **Plan Complete:** | Yes |
| **Plan Complete Date:** | 02/24/2011 |

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## Health and Safety: Permits and Certificates

H&S.8 The employer shall at all times be in possession of all legally required and valid permits and certificates related to health and safety issues, such as those related to the purchase and storage of chemicals, fire safety inspections, inspection of machinery, and (chemical) waste disposal. (P)

**Noncompliance**

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|---|---|
| **Explanation:** | It was noted that electricians' operation certificate had expired in August 2011.<br><br>Legal Reference: Article 55 of the Labor Law of the People's Republic of China.<br><br>Sources: document review, management interview, factory walkthrough |
| **Plan Of Action:** | The operation certificate of the electrician was in process at the time of the audit. |
| **Deadline Date:** | |
| **Action Taken:** | The certificate of the electrician was obtained as of December 31, 2011. |
| **Plan Complete:** | No |
| **Plan Complete Date:** | |

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## Health and Safety: Evacuation Requirements and Procedure

H&S.9 All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, the installation and maintenance of an employee alarm and emergency lighting systems, ensuring aisles/exits are not blocked and that workers are not blocked within their workstations, employee education, evacuation procedures, etc.) shall be complied with. Workers shall be trained in evacuation procedures. Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually. (S)

**Noncompliance**

**Explanation:** On-site observation found that:

1. Flammable materials and sundries were stored under 2 stairwells on the first floor of production buildings.

2. The main exit door on the first floor of the main production building was a rolling door and closed during working hours.

Legal References: Article 7.4.12 of Code of Fire Safety on Building Design (GB50016—2006) and Article 28 of China Fire Prevention Law

**Plan Of Action:** We have cleared up all the sundries on the first floor, and will train janitors and related workers in fire control.

**Deadline Date:** 11/25/2009

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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## Health and Safety: Personal Protective Equipment

H&S.11 Workers shall be provided with effective and all necessary personal protective equipment (such as gloves, eye protection, hearing protection, respiratory protection, etc.) to prevent unsafe exposure (such as inhalation or contact with solvent vapors, noise, dust, etc.) to health and safety hazards, including medical waste. (S)

**Noncompliance**

**Explanation:** It was noted that some over-lock sewing workers were not using the protective eye shield when handling the over-lock stitching machines.

Legal Reference: Article 74 of PRC Factory Safety and Health Rules

Sources: factory walkthrough, worker interview, management interview, document review (training records)

**Plan Of Action:**

1. The factory will immediately install protective shields missing on over-lock machines.

2. The Comprehensive Department will train employees to improve their awareness of health and safety and will educate them how to use the personal protective equipment (PPE) properly.

3. The Comprehensive Department will conduct training for the workshop supervisors so they can properly use the labor protection equipment at work.

4. The Comprehensive Department will inspect the workshop of the factory to ensure the use of the PPE periodically. Trainings on PPE use will be provided during the broadcasting hours in the factory. Yearly internal audit of the Chenfeng Group will follow up with the progress of this issue.

**Deadline Date:**

**Action Taken:** Workers use the protective eye shield when handling the over-lock stitching machines.

**Plan Complete:** No

**Plan Complete Date:**

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## Health and Safety: Ventilation/Electrical/Facility Installation and Maintenance

H&S.17 All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and in such a manner as to prevent or minimize hazardous conditions to workers in the facility. (S)

**Noncompliance**

**Explanation:** It was noted that the electric control switches were found missing proper covers.

Legal Reference: Article 41 of PRC Factory Safety and Sanitary Regulations

Sources: worker interview, factory walkthrough, document review (inspection records), management interview

**Plan Of Action:** The factory will install the proper covers as soon as possible.

1. The Comprehensive Department will provide follow up on investigations of electrical safety to ensure that all electrical equipment is safely maintained.

2. Yearly internal audit the Chenfeng Group will follow up with the progress on this issue.

**Deadline Date:**

**Action Taken:** The cover is installed. Maintenance of the electrical equipment is monitored regularly.

**Plan Complete:** No

**Plan Complete Date:**

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### Health and Safety: Machinery Maintenance and Worker Training

H&S.18 All production machinery, equipment and tools shall be regularly maintained and properly guarded. Workers shall receive training in the proper use and safe operation of machinery, equipment and tools they use. Employers shall ensure safety instructions are either displayed/posted near all machinery or are readily accessible to the workers. (S)

**Noncompliance**

**Explanation:** On-site observation found that there was no warning sign (such as for high temperatures) posted in the ironing department.

Legal Reference: Article 28 of China Production Safety Law

**Plan Of Action:** The factory management will post a warning sign in the ironing department before December 11, 2009.

**Deadline Date:** 11/25/2009

**Action Taken:** Factory had posted warning signs reading "Pay Attention to High Temperature" in the ironing department.

**Plan Complete:** Yes

**Plan Complete Date:** 12/31/2011

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## Hours of Work: Rest Day

HOW.2 Workers shall be entitled to at least one day off in every seven-day period. If workers must work on a rest day, an alternative day off must be provided within that same seven-day period or immediately following the seven-day period. (P)

**Noncompliance**

**Explanation:** Based on the review of records from January 2009 to October 2009 and information gathered from management interviews, it was found that all workers worked consecutively for 10 days in September 2009 (September 21 to September 30), and for 11 days in October 2009 (October 7 to October 17).

Legal Reference: Article 38 of China Labor Law

**Plan Of Action:** Factory will ensure that workers have a rest day every week beginning November 2009.

**Deadline Date:** 11/01/2009

**Supplier CAP:** Because of change in shipment, we did not ensure workers had 1 day off in every 7-day period. We will try our best to ensure workers have at least 1 rest day in every 7 days.

1. The Human Resources Department will provide training on normal working hours regulations to the person responsible for arranging production plans and order distribution.

2. The company CSR team will conduct annual internal audit to follow up on this issue.

**Supplier CAP Date:**

**Action Taken:** The factory has revised the production planning procedures so as to ensure 1 day off per week as below:

1. When the person responsible arranges production planning, they will ensure 1 day off per week and a maximum 60 working hours per week.

2. Overtime arrangements will be approved by the General Manager before they are arranged for the production line.

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| **Plan Complete:** | Yes |
| **Plan Complete Date:** | 11/01/2009 |

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