



2009

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** New Era Cap Co., Inc.  
**COUNTRY:** China  
**FACTORY CODE:** 270015174H  
**MONITOR:** Verite  
**AUDIT DATE:** November 19-20, 2009  
**PRODUCTS:** Knit Hats  
**PROCESSES:** Weaving, Sewing, Packing  
**NUMBER OF WORKERS:** 120

**Company Comment:** Regrettably, while we made every effort to partner with the factory on remediation and improvements, our efforts were met with resistance, and ultimately, we were left with questions concerning the location of our production that remain unanswered.



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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:** 1. Management reported that the factory does not provide paid annual leave, sick leave or official holidays to its workers.

2. Management reported that the factory does not provide medical service, pension, maternity, unemployment or work injury insurance to 70% of its workers.

**Plan Of  
Action:**

**Deadline  
Date:**



**Action Taken:** Upon receiving the FLA audit report on December 28, 2009, we immediately contacted our vendor to discuss the findings; as our goal in the remediation process was to understand the contributing factors to the noncompliance findings identified. As a first step, the factory was requested to provide a root cause analysis indicating why the noncompliance occurred and an action plan to correct and prevent the issue from occurring in the future. It was agreed with the factory that the remediation plan would be implemented in phases, beginning with health and safety in the first phase. A remediation team led by the vendor was designated to oversee immediate and short-term implementation of the remediation plan, with an independent verification audit planned for Q2 2010. Regarding this finding, the factory management agreed to provide legally mandated leaves and insurance. It was agreed that since health and safety would be prioritized in the first phase (month) of the remediation action plan, the benefits policies would be implemented in the second phase. The factory was closed for 4 weeks over Chinese New Year, but agreed to implement the second phase action items in March 2010.

An unannounced follow-up visit was conducted April 15, 2010, with 2 FLA accredited auditors and participating company (PC) representatives. During this visit, it was claimed by a factory representative that the owner was “in hospital” and that no other staff person would be able to meet with the auditors. The only records obtained by the auditors were the current month's attendance records and a few copies of the labor contracts, which were provided by the vendor representative when they arrived on-site. No other records were provided by the factory. Once the auditors and PC representatives were permitted to walk through the facility it was discovered that the PC's production was actually being subcontracted outside the facility. Our company takes the decision to exit a factory very seriously. Based on a number of factors, including the factory's repeated unwillingness to cooperate during the audit process and subcontracting production without authorization, we implemented an exit strategy. Our company represents a small percentage of the factory's production, so we attempted to reach out to other customers of the factory to assist in the remediation plan. However, at the time of our follow-up visit, the factory was mainly producing reusable grocery bags that were not branded.

**Plan Complete:** No

**Plan Complete Date:**

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## **Wages, Benefits and Overtime Compensation: General Compliance Wages, Benefits and Overtime Compensation**

WBOT.1 Employers shall comply with all local laws, regulations and procedures concerning the payment of wages and benefits, including overtime compensation. In any case where laws and the FLA Code are contradictory, the standard that provides the greatest protection for workers shall apply. Where provisions are lacking, employers shall take measures to reasonably accommodate matters concerning the payments of wages and benefits, including overtime compensation. (S)

### **Uncorroborated Evidence of Noncompliance**

**Explanation:** Most of the benchmarks could not be verified because the auditors were unable to perform worker interviews due to management's refusal.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** Cooperation with auditors, including providing unfettered access to employees for confidential interviews, is a fundamental expectation of any supplier making products for us, and noncompliance with this is taken very seriously. Prior to this monitoring visit, the factory had in fact agreed to both unannounced audits and confidential interviews as a condition of doing business with our company. According to factory management, their lack of cooperation on this occasion was due to a failure of communication and a belief that the auditors might be imposters, which is becoming a common practice in China. We reiterated the critical importance of confidential worker interviews, both to the integrity of the audit process and as a pre-established condition of business. Factory management agreed to permit interviews during subsequent audits going forward, and understands that we will conduct a follow-up audit in the near future which will include confidential worker interviews.

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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**Wages, Benefits and Overtime Compensation: Timely Payment of Wages**

WBOT.4 All wages, including overtime compensation shall be paid within legally defined time limits. When no time limits are defined by law, compensation shall be paid at least once a month. (S)

**Uncorroborated Evidence of Noncompliance**

**Explanation:** Workers in the computerized weaving workshop were paid quarterly.

**Plan Of**

**Action:**

**Deadline**

**Date:**

**Action Taken:** When pressed on this issue, the response by [factory name] management was that the “computerized weaving workshop” [workshop name] is a separate business entity with whom they have no business relationship outside of the company's rental agreement with [factory name]. The business license and photos were provided as evidence that the two companies are separate business entities, and that [factory name] claims to have no knowledge of [workshop name's] internal workplace practices. A records review conducted on January 21, 2010 confirmed that wages at [factory name] are paid monthly. This will also be verified during an independent audit in Q2 2010.

**Plan** No

**Complete:**

**Plan**

**Complete**

**Date:**

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**Wages, Benefits and Overtime Compensation: Payment for All Hours Worked**

WBOT.7 Workers shall be paid for all hours worked in a workweek. Calculation of hours worked must include all time that the employer allows or requires the worker to work. (S)

**Uncorroborated Evidence of Noncompliance**

**Explanation:** Trainees in the computerized weaving workshop were not paid for the first 7 days after entering the factory.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** As noted above, when pressed on this issue, the response by [factory name] management was that the “computerized weaving workshop” [workshop name] is a separate business entity with whom they have no business relationship outside of the company's rental agreement with [factory name]. The business license and photos were provided as evidence that the two companies are separate business entities, and [factory name] claims to have no knowledge of [workshop name's] internal workplace practices. According to a records review at [factory name] on January 21, 2010, wages are complete and on time. This will also be verified during an independent audit in Q2 2010.

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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**Wages, Benefits and Overtime Compensation: Premium/Overtime Compensation**

WBOT.10 The factory shall comply with all applicable laws, regulations and procedures governing the payment of premium rates for work on holidays, rest days, and overtime. (S)

**Uncorroborated Evidence of Noncompliance**

**Explanation:** Management reported that workers were paid by piece rate without overtime wage.

**Plan Of**

**Action:**

**Deadline**

**Date:**

**Action Taken:** The factory denied that their management reported to auditors that workers are paid piece rate without overtime wages; no other supporting evidence was provided by the auditors aside from alleged management testimony. According to a records review at [factory name] on January 21, 2010, wages are paid hourly, not piece rate. This will also be verified during the independent audit planned for Q2 2010.

**Plan** No

**Complete:**

**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:** Through on-site inspection the auditors found no legal code or laws posted in the factory work area.

**Plan Of Action:**

**Deadline Date:**

**Action Taken:** The factory agrees to this finding and will post the legally required postings. The Admin Department will be responsible for maintaining up-to-date postings and notices. It was agreed that since health and safety would be the focus of the first phase of the remediation plan, this item would be implemented in the second phase. The factory was closed for 4 weeks over Chinese New Year, but agreed to implement the item in March 2010.

**Plan Complete:** No

**Plan Complete Date:**

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## **Wages, Benefits and Overtime Compensation: Contestation of Wage Payments**

WBOT.24 Employers must establish a system through which workers can contest wage payments and receive clarifications in this respect in a timely manner. (P)

### **Noncompliance**

**Explanation:** Management reported that the factory does not have a system for workers to contest wage payments.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** The factory disputed this finding, noting that all employees sign off on the payroll every month, and that if employees have any questions regarding their wages, they can approach the Admin Department for a timely response. However, we did stress that workers will be provided with individual and itemized pay slips, which they agreed to implement. This will be verified during the independent audit planned for Q2 2010.

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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### **Wages, Benefits and Overtime Compensation: Pay Statement**

WBOT.26 Employers shall provide workers a pay statement each pay period, which shall show earned wages, wage calculations, regular and overtime pay, bonuses, all deductions and final total wage. (P)

#### **Noncompliance**

**Explanation:** Management reported that the factory does not provide pay slips to workers; normally, workers are provided payroll reports to review and sign on payday.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** The factory agrees with this finding and to correct it. It was agreed that this would be implemented following the Chinese New Year holiday. This will be verified during an independent audit in Q2 2010.

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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### **Forced/Compulsory Labor: Employment Records**

F.9 Employers shall maintain sufficient hiring and employment records to demonstrate and verify compliance with this Code provision. (P)

#### **Noncompliance**

**Explanation:** 1. There are no employment applications kept in the personal files.  
2. Management reported that the factory does not sign employment contracts with its workers.

**Plan Of  
Action:**

**Deadline**

**Date:**

**Action Taken:** The factory disputes both findings, that they do maintain applications and sign labor contracts with employees. No supporting evidence was provided by auditors to support these claims aside from citing management testimony. A records review on January 21, 2010 indicated that personnel files are complete and that labor contracts are executed for all employees. This will be verified during the independent audit in Q2 2010.

**Plan** No

**Complete:**

**Plan**

**Complete**

**Date:**

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**Forced/Compulsory Labor: Worker Ability to Terminate/Freedom of Movement**

F.13 Employers shall not utilize practices that restrict a workers' ability to terminate his or her employment or freedom of movement. Examples of such practices include, but are not limited to: (the threat of) physical or mental coercion; requiring deposits; imposing financial penalties; requiring recruitment fees; setting production targets or piece rates at such a level that workers need to work beyond normal working hours (excluding overtime) as set under the FLA Code in order to make the legal minimum wage or the prevailing industry wage; and denying and hampering access to, and renewal of, identity papers and/or work permits or any other personal legal (identification) documents. (S)

**Noncompliance**

**Explanation:** Management reported that all work assignments, pay and promotions were based upon workers' capabilities, skills and contributions; factory provides general training regarding factory policies and health and safety to all workers. According to management, unskilled workers in the weaving workshop were required to deposit RMB 800 for skills training, and that the training deposits will be only returned to workers if they serve at the factory for a full year after the training. The factory does not have written policies on work assignments and promotions.

**Plan Of**

**Action:**

**Deadline**

**Date:**

**Action Taken:** As noted above, the response by [factory name] management was that the “computerized weaving workshop” [workshop name] is a separate business entity with whom they have no business relationship outside of the company's rental agreement with [factory name]. The business license and photos were provided as evidence that the two companies are separate business entities, and [factory name] claims to have no knowledge of [workshop's name] internal workplace practices. According to [factory name], they do not have any training fees and employees are paid at least minimum wage during the training period; this was confirmed during a records review at [factory name] on January 21, 2010. This will also be verified during the audit planned for Q2 2010.

**Plan** No

**Complete:**

**Plan**

**Complete**

**Date:**

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**Forced/Compulsory Labor: Personal Worker Identification and Other Documents**

F.15 Workers shall retain possession or control of their passports, identity papers, travel documents or any other personal legal documents. Employers shall not retain any such documents to restrict workers' access to them for any reason whatsoever, including in order to ensure that workers shall remain in employment in the factory. (S) Employers may obtain copies of original documents for record-keeping purposes.

**Noncompliance**

**Explanation:** Management reported that the factory will hold ID cards for a month for those newly hired as a way to prevent irresponsible behaviors, such as leaving without a notice. Management further stated that if they have legitimate reasons, workers have free access to their ID cards while they are held by the factory during their first month.

**Plan Of**

**Action:**



**Deadline**

**Date:**

**Action Taken:** When pressed on this issue, the factory flatly disputed this finding on the following grounds:

1. It does not employ such an abusive practice;
2. That the auditors have attributed this claim falsely to factory management. No other supporting evidence was provided by the auditors aside from the alleged management testimony. According to a records review on January 21, 2010, only copies of IDs are maintained in personnel files. This will be verified during a comprehensive follow-up audit planned for Q2 2010.

**Plan** No

**Complete:**

**Plan**

**Complete**

**Date:**

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**Freedom of Association: General Compliance Freedom of Association**

FOA.1 Employers shall comply with all local laws, regulations and procedures concerning freedom of association and collective bargaining. (S)

**Uncorroborated Evidence of Noncompliance**

**Explanation:** Most of the benchmarks could not be verified because the auditors were unable to perform worker interviews due to management's refusal.

**Plan Of Action:** This is a duplicate finding to Fair Wages: General Compliance Wages, Benefits and Overtime Compensation above.

**Deadline**

**Date:**



**Action Taken:** Cooperation with auditors, including providing unfettered access to employees for confidential interviews, is a fundamental expectation of any supplier making products for us, and noncompliance with this is taken very seriously. Prior to this monitoring visit, the factory had in fact agreed to both unannounced audits and confidential interviews as a condition of doing business with our company. According to factory management, their lack of cooperation on this occasion was due to a failure of communication and a belief that the auditors might be impostors, which is becoming a common practice in China. We reiterated the critical importance of confidential worker interviews to both the integrity of the audit process and as a pre-established condition of business. Factory management agreed to permit interviews during subsequent audits going forward, and understands that we will conduct a follow-up audit in the near future which will include confidential worker interviews.

**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 Oct. 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 Dec. 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:**

**Deadline  
Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete  
Date:**

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### **Freedom of Association: Grievance Procedure**

FOA.26 Employer shall have in place written grievance procedures that allow first an attempt to settle grievances directly between the worker and the immediate supervisor but that, where this is inappropriate or has failed, it is possible for the worker to have the grievance considered at one or more steps, depending on the nature of the grievance and the structure and size of the enterprise. Employers shall ensure that the grievance procedures and applicable rules are known to workers. (P)

#### **Uncorroborated Evidence of Noncompliance**

**Explanation:** Management reported that workers can verbally report any comments or grievances, but that they do not have a formal internal procedural system in this regard. The worker perspective could not be verified because the auditors were unable to perform worker interviews due to management's refusal.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** According to the factory, their internal grievance process is documented in their Employee Handbook, which they did not provide to auditors on the day of the audit because they thought the auditors were impostors. During the records review on January 21, 2010, this procedure was included within the Employee Handbook. Whether employees are provided adequate communication about the grievance procedure will be assessed during the follow-up audit planned for Q2 2010.

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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## Harassment or Abuse: General Compliance Harassment or Abuse

H&A.1 Employers shall comply with all local laws, regulations and procedures concerning discipline, violence, harassment and abuse. (S)

### Uncorroborated Evidence of Noncompliance

**Explanation:** Most of the benchmarks could not be verified because the auditors were unable to perform worker interviews due to management's refusal.

**Plan Of Action:** This is a duplicate finding to Fair Wages: General Compliance Wages, Benefits and Overtime Compensation above.

**Deadline**

**Date:**

**Action Taken:** Cooperation with auditors, including providing unfettered access to employees for confidential interviews, is a fundamental expectation of any supplier making products for us, and noncompliance with this is taken very seriously. Prior to this monitoring visit, the factory had in fact agreed to both unannounced audits and confidential interviews as a condition of doing business with our company. According to factory management, their lack of cooperation on this occasion was due to a failure of communication and a belief that the auditors might be impostors, which is becoming a common practice in China. We reiterated the critical importance of confidential worker interviews to both the integrity of the audit process and as a pre-established condition of business. Factory management agreed to permit interviews during subsequent audits going forward, and understands that we will conduct a follow-up audit in the near future which will include confidential worker interviews.

**Plan** No

**Complete:**

**Plan**

**Complete**

**Date:**

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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:** Management reported that the factory does not have a written system of progressive discipline.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** According to the factory, their system of progressive discipline is documented in their Employee Handbook, which they did not provide to auditors on the day of the audit as they thought the auditors were impostors. During the record review on January 21, 2010, this procedure was included within the Employee Handbook. Whether employees are provided adequate communication about the disciplinary rules and procedures will be assessed during the comprehensive follow-up audit planned for Q2 2010.

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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**Harassment or Abuse: Discipline/Written Disciplinary System**

H&A.5 Employers shall maintain a system of written disciplinary rules, procedures and practices. Disciplinary rules, procedures and practices shall be clearly communicated to all workers. (P)

**Noncompliance**

**Explanation:** Management reported that the factory does not have a written system for disciplinary rules, procedures and practices.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** According to the factory, their disciplinary rules and procedures are documented in their Employee Handbook, which they did not provide to auditors on the day of the audit because they thought the auditors were impostors. During the record review on January 21, 2010, this procedure was included within the Employee Handbook. Whether employees are provided adequate communication about the disciplinary rules and procedures will be assessed during the follow-up audit planned for Q2 2010.

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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### **Harassment or Abuse: Discipline/Worker Awareness and Participation of Workers**

H&A.6 Workers must be informed when a disciplinary procedure has been initiated against them. Workers have the right to participate and be heard in any disciplinary procedure against them. Employers shall maintain written records of all disciplinary actions taken. Workers must sign all written records of disciplinary action against them. Such records must be maintained in the worker's personnel file. (P)

#### **Noncompliance**

**Explanation:** Management reported that no written records were kept on disciplinary proceedings.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** The factory agrees to this finding and to maintain written records going forward. The Admin Department will be designated to take charge of this.

**Plan            No  
Complete:**

**Plan  
Complete  
Date:**

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## Harassment or Abuse: Discipline/Monetary Fines and Penalties

H&A.8 Employers shall not use monetary fines and penalties as a means to maintain labor discipline, including for poor performance or for violating company rules, regulations, and policies. (S)

### Noncompliance

**Explanation:** The auditors found that there is a notice posted in the weaving workshop which indicates workers will be subject to deductions if they doze during work hours. Management reported that the notice was meant just as a warning sign to remind workers to pay attention to their job and that this was never applied. The auditors were unable to make cross-references from worker interviews.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** As noted above, the response by [factory name] regarding findings attributed to the “weaving workshop” [workshop name] was that [workshop name] is a separate business entity with whom they have no business relationship outside of the company's rental agreement with [factory name]. The business license and photos were provided as evidence that the two companies are separate business entities, and [factory name] claims to have no knowledge of [workshop's name] internal workplace practices or information posted in their workshop. According to [factory name] they do not use any disciplinary measures requiring punitive deductions from employee pay; no evidence of this was found during the record review on January 21, 2010. This will be verified during a follow-up audit planned for Q2 2010.

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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### **Forced Labor: Employment of Young Workers**

CL.6 Employers shall comply with all relevant laws that apply to young workers (i.e., those between the minimum working age and the age of 18) including regulations relating to hiring, working conditions, types of work, hours of work, proof of age documentation, and overtime. (P)

#### **Noncompliance**

**Explanation:** Through document review and management interview, auditors found there were 6 juvenile workers who were not provided with health examinations or registered with the local labor department.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** [Factory name] disputes this finding, claiming that they do not employ anyone under the age of 18, and no supporting evidence was provided by the auditors. No evidence was found that any juvenile workers are employed at [factory name] during the record review and walkthrough on January 21, 2010. This will be verified during an independent audit planned for Q2 2010.

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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### **Forced Labor: Young Worker Identification System**

CL.8 Employers shall have a system for identifying work stations and operations that are inappropriate for young workers according to applicable laws. (P)

#### **Noncompliance**

**Explanation:** Management reported that the factory does not have written policies on the special protections for young workers; young workers were treated the same way as other workers.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** According to [factory name], since their policy is not to employ anyone younger than 18, they do not have a need for special policies concerning young workers. A comprehensive follow-up audit is planned for Q2 2010 to verify that no juvenile workers are employed.

**Plan  
Complete:** Yes

**Plan  
Complete  
Date:** 01/21/2010

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**Code Awareness:**

GEN.1 Establish and articulate clear, written workplace standards. Formally convey those standards to Company factories as well as to licensees, contractors and suppliers.

**Noncompliance**

**Explanation:** Management reported that the factory does not have written workplace standards.

**Plan Of Action:** .

**Deadline Date:**

**Action Taken:** The factory agrees to this finding and will adopt written workplace standards. It was agreed that since health and safety would be the focus of the first phase of the remediation plan, along with the legal postings, this item would be implemented in the second phase. The factory was closed for 4 weeks over Chinese New Year, but agreed to implement this item beginning March 2010.

**Plan Complete:** No

**Plan Complete Date:**

**Health and Safety: General Compliance Health and Safety**

H&S.1 Employers shall comply with all local laws, regulations and procedures concerning health and safety. (S)

**Uncorroborated Evidence of Noncompliance**

**Explanation:** Most of the benchmarks could not be verified because the auditors were unable to perform worker interviews due to management's refusal.

**Plan Of Action:** This is a duplicate finding to Fair Wages: General Compliance Wages, Benefits and Overtime Compensation above.



**Deadline**

**Date:**

**Action Taken:** Cooperation with auditors, including providing unfettered access to employees for confidential interviews, is a fundamental expectation of any supplier making products for us, and noncompliance with this is taken very seriously. Prior to this monitoring visit, the factory had in fact agreed to both unannounced audits and confidential interviews as a condition of doing business with our company. According to factory management, their lack of cooperation on this occasion was due to a failure of communication and a belief that the auditors might be impostors, which is becoming a common practice in China. We reiterated the critical importance of confidential worker interviews to both the integrity of the audit process and as a pre-established condition of business. Factory management agreed to permit interviews during subsequent audits going forward, and understands that we will conduct a follow-up audit in the near future which will include confidential worker interviews.

**Plan** Yes

**Complete:**

**Plan**

**Complete**

**Date:**

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**Health and Safety: Document Maintenance/Worker Accessibility and Awareness**

H&S.2 All documents required to be available to workers and management by applicable laws (such as health and safety policies, MSDS, etc.) shall be made available in the prescribed manner and in the local language or language(s) spoken by the workers if different from the local language. (P)

**Noncompliance**

**Explanation:** The factory does not collect relevant laws and regulations in the Health, Safety and Environmental (HSE) areas.

**Plan Of**

**Action:**

**Deadline**

**Date:**

**Action Taken:** According to the factory, they do maintain all laws and regulations in HSE, but these were not made available to auditors on the day of the audit because the factory thought the auditors were impostors. During the records review on January 21, 2010 it was confirmed that these documents are maintained.

**Plan Complete:** Yes

**Plan Complete Date:** 01/21/2010

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### **Health and Safety: Written Health and Safety Policy**

H&S.3 Employers are required to develop, maintain and regularly review a written health and safety policy. The policy must, at the very least, be aimed at complying with legal minimum safety and health standards, regulations and procedures. (P)

#### **Noncompliance**

**Explanation:** Management reported that the factory does not have a written health and safety policy.

**Plan Of Action:**

**Deadline Date:**

**Action Taken:** The factory disputes this finding and claims that their Health and Safety Policy is written in the Employee Handbook, which was not provided to auditors on the day of the audit because the factory thought the auditors were impostors. The policy was included in the Employee Handbook, as per the record review on January 21, 2010. Whether the policy is adequately communicated to employees will be verified during the follow-up audit planned for Q2 2010.

**Plan Complete:** Yes

Plan 01/21/2010

Complete

Date:

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### Health and Safety: Health and Safety Management System

H&S.5 The health and safety policy shall contain the framework for a comprehensive health and safety management system within which employers' responsibilities and workers' rights and duties, various responsibilities of designated personnel, procedures that enable workers to raise health and safety concerns and procedures for reporting death, injury, illness and other health and safety issues (for instance, near-miss accidents) are clear and regularly tested and reviewed. (P)

#### Noncompliance

**Explanation:** Management reported that the factory does not have a comprehensive health and safety management system.

**Plan Of**

**Action:**

**Deadline**

**Date:**

**Action Taken:** The factory agrees that there is room to improve in their health and safety management system. As a first step in the remediation plan, they will implement the health and safety corrective actions requiring immediate attention, including those related to fire safety, first aid and personal protective equipment (PPE).

Plan No

Complete:

Plan

Complete

Date:

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### Health and Safety: Notification and Record Maintenance

H&S.7 Employers shall notify the relevant authorities of all illnesses and accidents as required by applicable laws. All illness, safety and accident reports shall be maintained on site for at least one year, or longer if required by law. (P)

#### Noncompliance

**Explanation:** Management reported that the factory does not maintain records for illness and accident.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** The factory agreed with this finding and agreed to maintain a record for work-related illness and accidents, with immediate effect. This will be assessed during the follow-up audit in Q2 2010.

**Plan  
Complete:** Yes

**Plan  
Complete  
Date:**

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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

- Explanation:**
1. It was reported that the factory does not have the environment permits, and they did not collect relevant Health, Safety and Environmental (HSE) regulations.
  2. The cargo lift driver does not have a license.
  3. The electrician was not provided with a license.

**Plan Of Action:**

**Deadline Date:**

- Action Taken:**
1. The factory agreed to this finding and to obtain the necessary environmental permits and regulations.
  2. According to the factory, the cargo lift driver has a license, but it was not provided for review on the day of the audit. The license was available for review during the January 21, 2010 visit.
  3. According to the factory, the electrician has a license but it was not provided for review on the day of the audit. The license was available for review during the January 21, 2010 visit.

**Plan Complete:** Yes

**Plan Complete Date:** 01/21/2010

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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:**
1. There was only one exit in the computerized weaving workshop.
  2. Most of the fire hydrants and fire extinguishers were blocked by raw materials or semi-finished products.
  3. There were no fire extinguishers equipped in the incoming material room or the yarn rolling workshop on the first floor.
  4. There were no emergency lights installed in the following production areas: (a) raw material warehouse on the first floor; (b) yarn rolling workshop on the first floor; (c) packing, cutting and sewing workshops on the second floor; (d) sewing and packing workshops on the third floor.
  5. It was reported that there was no fire alarm installed in both production and dormitory buildings.
  6. It was reported that there was no sprinkler system installed in both production and dormitory buildings.
  7. The emergency evacuation maps posted were not updated to match the real conditions.
  8. No fire alarm was installed at the factory.
  9. Anti-explosion lights were not installed in the storage room.

**Plan Of Action:** As noted above, the response by [factory name] management was that the “computerized weaving workshop” [workshop name] is a separate business entity with whom they have no business relationship outside of the company's rental agreement with [factory name], and they bear no responsibility. However, since [factory name] owns the building we emphasized, ensuring there are an adequate number of exits is in fact [factory name's] responsibility. Items 2, 3, 4, 7 and 9 were agreed to as an immediate priority and verified as corrected on January 21, 2010.



**Deadline** 12/21/2009  
**Date:**

**Action Taken:** As noted above, the response by [factory name] management was that the “computerized weaving workshop” [workshop name] is a separate business entity with whom they have no business relationship outside of the company's rental agreement with [factory name], and they bear no responsibility. However, since [factory name] owns the building we emphasized, ensuring there are an adequate number of exits is in fact [factory name's] responsibility. Items 2, 3, 4, 7 and 9 were agreed to as an immediate priority and were confirmed as corrected on January 21, 2010.

**Plan** No  
**Complete:**

**Plan**  
**Complete**  
**Date:**

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### **Health and Safety: Safety Equipment and First Aid Training**

H&S.10 All safety and medical equipment (such as fire fighting equipment, first aid kits, etc.) shall be available in sufficient numbers throughout the factory, maintained and stocked as prescribed and easily accessible to workers. A sufficient number of workers shall be trained in first aid and fire fighting techniques. (S)

#### **Noncompliance**

- Explanation:**
1. Management reported that there are no medical facilities at the factory and that there were no professionally trained medical personnel in the factory. According to management, no workers had been provided first aid training.
  2. It was reported that no first aid kits were equipped in the factory.
  3. It was reported that no first aid procedures were posted at the factory.

**Plan Of**  
**Action:**

**Deadline**  
**Date:**



**Action Taken:** The factory agreed to enroll at least 2 employees in a first aid training and certification program, to provide first aid kits on the production floor and to post first aid procedures, as an immediate priority. Follow-up visit on January 21, 2010 confirmed that 2 workers were trained and certified in first aid on January 13, 2010. First aid kits were available and first aid procedures were posted at the factory.

**Plan Complete:** Yes

**Plan Complete Date:** 01/21/2010

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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:**
1. It was reported that the factory did not provide metal gloves to the cutting workers in the cutting workshop, earplugs to about 10 workers in the computerized weaving workshop and 2 workers in the yarn rolling workshop where the noise level is above 85 decibels, and dust masks to the 2 workers in the yarn rolling workshop.
  2. The factory did not provide any PPE to workers using spot removers and paint in their work, such as gloves, gas masks and glasses.

**Plan Of Action:**

**Deadline Date:**

**Action Taken:** As an immediate priority, the factory agreed to conduct PPE education and provide relevant PPE to workers. During the follow up-visit on January 21, 2010 it was confirmed that PPE requirements were posted and that PPE was available and used correctly by workers.

**Plan Complete:** Yes

**Plan Complete Date:** 01/21/2010

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### **Health and Safety: Chemical Management and Training**

H&S.13 All chemicals and hazardous substances shall be properly labeled and stored in accordance with applicable laws. Labels shall be placed in the local language and the language(s) spoken by workers, if different from the local language. Workers shall receive training, appropriate to their job responsibilities, concerning the hazards, risks and the safe use of chemicals and other hazardous substances. (S)

#### **Noncompliance**

**Explanation:** The auditors reported that there was no water and medical supplies provided in the production areas where chemicals are used or stored.

**Plan Of Action:**

**Deadline Date:**

**Action Taken:** The factory disputes this finding and claims that no chemicals are used, only soap. This will be verified during the follow-up audit in Q2 2010.

**Plan Complete:** No

Plan  
Complete  
Date:

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### Health and Safety: Material Safety Data Sheets/Worker Access and Awareness

H&S.14 Material Safety Data Sheets (MSDS) for all chemicals used in the factory must be available at the usage and storage sites of the chemicals, in the local language and the language(s) spoken by workers, if different from the local language. Workers shall have free access to MSDS. (P)

#### Noncompliance

- Explanation:**
1. The auditors reported that there were no signs or diagrams posted that require workers to use the PPE needed.
  2. The auditors reported that there are no MSDS available for spot removers and painting materials used.

Plan Of  
Action:

Deadline  
Date:

**Action Taken:** As noted above, the factory agreed to provide PPE education and post PPE procedures as an immediate priority. Also as above, the factory disputes this finding and claims that no chemicals are used, only soap. It was confirmed that PPE procedures were posted during the follow-up on January 21, 2010. This will be verified as well during the independent audit in Q2 2010.

Plan  
Complete: Yes

Plan  
Complete  
Date: 01/21/2010

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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:**
1. Management reported that spot removers and painting materials were not separately stored from the production areas.
  2. It was reported that two yarn rolling machines in the incoming material room on the first floor and three disconnecting machines were not grounded.
  3. It was reported that some machines were not properly guarded with protective devices at the factory, for instance, there was no belt guard installed for half the sewing machines and the two yarn rolling machines on the first floor; there were no needle guards installed for all the sewing machines.
  4. No inspection records were provided to indicate that the gauge and pressure were inspected.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** As noted above, the factory claims that no chemicals are used, only soap. The factory agreed to install earthing wires, needle and belt guards for all machines. It was confirmed that earthing wires, needle and belt guards were installed on all machines during the follow up on January 21, 2010. This will be verified as well during the independent audit in Q2 2010.

**Plan  
Complete:** Yes

**Plan  
Complete  
Date:** 01/21/2010

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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:** Management reported that the factory does not provide training to workers in the proper use and safe operation of machinery, equipment and tools they use.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** As an immediate priority the factory agreed to establish a safety training program for workers, with pre-work orientation and refresher trainings on the factory's Health and Safety Policy, management and employee rights and responsibilities, work-related risks and hazard prevention. The factory agreed to conduct training after the Chinese New Year, which will be verified during Q2 2010.

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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### Health and Safety: Medical Facilities

H&S.21 Medical facilities shall be established and maintained in factories as required by applicable laws. Medical staff shall be fully licensed and recognized under applicable local rules and regulations. An appropriate number of medical staff shall be on duty during all working hours, including any type of overtime, as required under local law. An appropriate stock of medical supplies shall be maintained at all times. Medicines of which the expiration date has passed must be replaced immediately and disposed of in a safe manner. (P)

#### Noncompliance

- Explanation:**
1. Management reported that there are no medical facilities at the factory, and that there are no professionally trained medical personnel in the factory. According to management, no workers had been provided first aid training.
  2. The auditors reported that no first aid kits are equipped in the factory.
  3. The factory does not have a first aid policy.
  4. The auditors reported that no first aid procedures were posted at the factory.

**Plan Of Action:** This is a duplicate finding also reported in Health and Safety: Safety Equipment and First Aid Training above.

**Deadline Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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### Health and Safety: Sanitation in Factory Facilities

H&S.22 All facilities including factory buildings, toilets, canteens, kitchens, and clinics, shall be kept clean and safe and be in compliance with all applicable laws, including relevant sanitation, medical and safety and health regulations. (S)

#### Noncompliance

- Explanation:**
1. There was no fire extinguisher installed in the factory canteen.
  2. There was no exit sign installed in the canteen.
  3. There was no emergency light in the canteen.
  4. Through management interview, the factory had obtained the hygiene certificate for the kitchen, but they did not provide the hygiene certificate for review.
  5. The staff in the kitchen did not have the required health certificates.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action Taken:** The factory agreed to install the fire extinguishers, exit signs and emergency lights in the canteen. According to the factory, they have the hygiene certificates for the kitchen and staff health certificates, but did not provide the auditors for review on the day of the audit. During the January 21, 2010 follow up visit, it was confirmed that the factory had the hygiene and health certificates, as well as had installed the fire extinguishers, exit signs and emergency lights in the canteen. A comprehensive follow up is planned for Q2 2010.

**Plan  
Complete:** Yes

**Plan  
Complete  
Date:** 01/21/2010

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### Health and Safety: Food Preparation

H&S.25 All food made available to workers shall be prepared, stored, and served in a safe and sanitary manner in accordance with all applicable laws. All workers handling food shall be provided with the tools and equipment necessary to do so in a safe and sanitary manner. (S)

#### Noncompliance

**Explanation:** The staff in the kitchen did not have the health certificates required.

**Plan Of Action:** This is a duplicate finding. (mentioned above)

**Deadline Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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### Hours of Work: General Compliance Hours of Work

HOW.1 Employers shall comply with all local laws, regulations and procedures concerning hours of work, public holidays and leave. (S)

#### Uncorroborated Evidence of Noncompliance

**Explanation:** Most of the benchmarks could not be verified because the auditors were unable to perform worker interviews due to management's refusal.

**Plan Of Action:** This is a duplicate finding to Fair Wages: General Compliance Wages, Benefits and Overtime Compensation above.

**Deadline Date:**



**Action Taken:** Cooperation with auditors, including providing unfettered access to employees for confidential interviews, is a fundamental expectation of any supplier making products for us, and noncompliance with this is taken very seriously. Prior to this monitoring visit, the factory had in fact agreed to both unannounced audits and confidential interviews as a condition of doing business with our company. According to factory management, their lack of cooperation on this occasion was due to a failure of communication and a belief that the auditors might be impostors, which is becoming more commonplace. We reiterated the critical importance of both confidential worker interviews to the integrity of the audit process and as a pre-established condition of business. The factory management agreed to permit interviews during subsequent audits going forward.

**Plan Complete:** Yes

**Plan Complete Date:**

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### Hours of Work: Public Holidays

HOW.13 Employers shall provide workers with all official public holidays as required under local laws, regulations and procedures. (S)

#### Noncompliance

**Explanation:** Management reported that the factory does not provide paid official holidays to its workers.

**Plan Of Action:** This is a duplicate finding. (See Benefits A.)

**Deadline Date:**

**Action Taken:**

**Plan Complete:** No



**Plan  
Complete  
Date:**

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**Hours of Work: Annual Leave**

HOW.14 Employers shall provide workers with paid annual leave as required under local laws, regulations and procedures. (S)

**Noncompliance**

**Explanation:** Management reported that the factory does not provide paid annual leave to its workers.

**Plan Of  
Action:** This is a duplicate finding. (See Benefits A.)

**Deadline  
Date:**

**Action Taken:**

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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### Hours of Work: Annual Leave/Wage Payments

HOW.18 Employers shall provide workers taking annual leave their normal or average wages for the full period of annual leave in advance, unless specified differently under local laws, regulations and procedures. (S)

#### Noncompliance

**Explanation:** Management reported that the factory does not provide paid annual leave to its workers.

**Plan Of Action:** This is a duplicate finding. (See Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses.)

**Deadline Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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### Hours of Work: Sick Leave

HOW.19 Employers shall provide workers with sick leave as required under local laws, regulations and procedures. (S)

#### Noncompliance

**Explanation:** Management reported that the factory does not provide paid sick leave to its workers.

**Plan Of Action:** This is a duplicate finding. (See Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses.)

**Deadline Date:**



**Action Taken:**

**Plan  
Complete:** No

**Plan  
Complete  
Date:**

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