



2009

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** Hanesbrands, Eddie Bauer  
**COUNTRY:** China  
**FACTORY CODE:** 720015147H  
**MONITOR:** Social Compliance Services  
Asia Ltd.  
**AUDIT DATE:** August 17 – 18, 2009  
**PRODUCTS:** Garments  
**PROCESSES:** Sewing, Cutting, Packing  
**NUMBER OF WORKERS:** 205

**Hanesbrands Comment:** *This factory was sourced for seasonal sportswear products for the Japanese market solely, but has had minimal capacity for Hanesbrands (Hbl) production so far. Due to effects of the global economic crisis and the corresponding decrease on the demand for products in our Japanese market, the last shipment for Hbl brands from this facility was made at the end of March 2009. Although our group tried to keep this factory among our suppliers for another 6 months or so, there was no possibility of continual orders from customers. The factory also communicated to Hbl that they were unwilling to work for the minimal quantity, even if for different items. Consequently, our Japanese office decided to inactivate this factory as of January 1, 2010. Therefore, the decision to exit from this facility was purely business driven, not compliance driven. Our Japanese office also confirmed they would not be using this facility for at least the next 12 months or longer. This factory is a shared facility with Eddie Bauer International (EBI); therefore, Hbl and EBI started to collaborate on the CAP, along with follow-up action items. When Hbl acknowledged the withdrawal decision to the factory, they agreed to work with EBI on the corrective action plan continuously, as EBI is one of their remaining customers. As for the findings, there were no critical issues under the codes of child labor, forced labor and harassment from any of the internal and external audits. However, the factory was suspected of having double sets of payroll records, as several inconsistencies were found among production documents. EBI and Hbl had tried to explain to the factory the importance of revealing the genuine records during audits. The factory management finally confirmed to disclose all records during upcoming visits and showed willingness to improve the payroll and working hour deficiencies.*

**FLA Comment:** *Since this monitoring visit, the FLA-affiliated company Eddie Bauer International (EBI), formerly a Participating Company, has ceased affiliation with the FLA.*

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 time and payment records provided, legal mandated holidays, leave, benefits and bonuses were provided to eligible workers. However, due to various inconsistencies noted during the audit, workers' actual working hours, wages and benefits status could not be accurately verified.

(Article 51, 45 of PRC Labor Law)

**Plan Of Action:** A conference call was held between representatives from both PCs (HBI and EBI) on October 5 to understand the audit findings and to discuss the plan for factory action. A discussion with factory manager was held on October 19 with HBI and EBI over the phone. The inconsistent record keeping issue was highly addressed to the factory and the consequences of falsified records were emphasized. Factory manager appears to be aware of the seriousness. Both PCs received the first draft reply from factory on October 29, which looks too simple and lacks commitment. Representative from factory's HK vendor was invited for a face-to-face meeting. The seriousness of inconsistent record keeping was emphasized again. The vendor admitted that some workers from two production lines worked on Sundays and committed to compensate those working hours correctly. A finalized factory CAP was received on November 20. Both PCs reviewed CAP and agreed to have a first follow-up visit around December 2009 or January 2010 to rectify the compliance of working hours, payment and benefits. The next follow-up visit was planned in the next 3 to 4 months, after the first visit. PC will keep following up with factory about the supporting documents.

**Deadline Date:** 12/31/2010



**Supplier CAP:** Due to sewing workers being paid piece rate, some of them will work on Sunday on their own without the company's approval. Their group leader may want to get a better record of the production rate and allow the workers to work overtime without notice from the company. Factory has investigated the dates as mentioned and found that some workers had not followed the rule to not work on holidays; except for January 18, 2009, when there should be no workers at work due to this date being Chinese New Year holiday. Factory paid back all the wages to workers involved in Sunday work. Those days included January 4, 2009 (4 workers), June 28, 2009 (4 workers), July 5 and 9, 2009 (10 workers) and August 16, 2009 (7 workers). Pay slips were provided for review. To ensure that the workers are only allowed to work overtime under the acknowledgement and permission of factory management, factory arranged security guards to lock all doors to the work floors. A security logbook will be maintained from February 2010 on. Factory committed to pay all overtime hours under the legal laws and to maintain all payroll records accurately. Factory uses the form in accordance with labor law to calculate the workers' wages: a) for night overtime, factory pays 150% and b) for Saturday overtime, factory pays 200%. It shows the wage details in the form, and the wage notes will be given to workers when paying off.

**Supplier CAP** 11/24/2009  
**Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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### **Wages, Benefits and Overtime Compensation: Deposit of Legally Mandated Deductions**

WBOT.13 All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc. The employer shall not hold over any of these funds from one pay period to the other unless the law specifies that deposits are to be made less frequently than pay periods (e.g., monthly deposits, weekly pay). If the law does not specify, then deposits shall be made before the next pay period in all cases. (S)

#### **Noncompliance**

**Explanation:** Insufficient social insurance coverage was provided to employees. As per July 2009's social insurance contribution record, it was noted that the factory had provided work-related injury insurance to all 240 employees, but only 142 out of 240 with medical insurance and 130 out of 240 with pension and unemployment insurance. There was no maternity insurance provided to employees. Factory obtained the social insurance waiver from local social insurance bureau.

(Article 73 of the Labor Law of the People's Republic of China)

**Plan Of Action:** During the conversation with factory manager and their HK vendor, it was noted that the factory agreed to gradually increase the social insurance coverage to meet the law requirements. PCs will keep following up with the progress of the coverage increases.

**Deadline Date:** 12/31/2011

**Supplier CAP:** For the social insurance, factory has tried its best to carry out in accordance with national law and local authority rules, and has related approved documents for reference. Factory is going to buy social insurance for 5 workers each month until all workers have social insurance. For maternity insurance, local authority hasn't stipulated to buy it, so factory can't buy it at present. Factory will buy it when it is available to them. Due to the new social insurance law imposed in January 1, 2010 in China, the factory workers seem to not be willing to contribute to the pension. Factory will arrange officials from Social Insurance Bureau or local government to deliver training to workers about the new law in the middle of February 2010. Questionnaires will be distributed to workers about their willingness to contribute to the new pension arrangement. Factory will take further actions after collecting the questionnaires from workers. Factory is willing to contribute their part of pension to comply with the legal requirements.

**Supplier CAP Date:** 11/24/2009



**Action  
Taken:**

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

**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)

**Noncompliance**

**Explanation:** Due to the inconsistencies noted between the time and payment records provided, along with other information and records obtained during the audit, auditors were unable to accurately verify workers' actual working hours, wages, overtime compensation and benefits status at the facility.

(Article 48, 44 of PRC Labor Law)



**Plan Of Action:** A conference call was held between representatives from both PCs (HBI and EBI) on October 5 to understand the audit findings and to discuss the plan for factory action. A discussion with factory manager was held on October 19 with HBI and EBI over the phone. The inconsistent record keeping issue was highly addressed to the factory and the consequences of falsified records were emphasized. Factory Manager appears to be aware of the seriousness. Both PCs received the first draft reply from factory on October 29, which looks too simple and lacks commitment. Representative from factory's HK vendor was invited for a face-to-face meeting. The seriousness of inconsistent record keeping was emphasized again. The vendor admitted that some workers from two production lines worked on those Sundays and committed to compensate those working hours correctly. A finalized factory CAP was received on November 20. Both PCs reviewed and agreed to have a first follow-up visit around December 2009 or January 2010 to rectify the compliance of working hours, payment and benefits. The next follow-up visit was planned in the next 3 to 4 months after the first visit. PC will keep following up with factory about the supporting documents.

**Deadline Date:** 12/31/2010

**Supplier CAP:** Due to sewing workers being paid piece rate, some of them will work on Sunday on their own without the company's approval. Their group leader may want to get a better record of the production rate and allow the workers to work overtime without notice from the company. Factory has investigated the dates as mentioned and found that some workers had not followed the rule to not work on holidays; except for January 18, 2009, when there should be no workers at work due to this date being Chinese New Year holiday. Factory paid back all the wages to workers involved in Sunday work. Those days included January 4, 2009 (4 workers), June 28, 2009 (4 workers), July 5 and 9, 2009 (10 workers) and August 16, 2009 (7 workers). Pay slips were provided for review. To ensure that the workers are only allowed to work overtime under the acknowledgement and permission of factory management, factory arranged security guards to lock all doors to the work floors. A security logbook will be maintained from February 2010 on. Factory committed to pay all overtime hours under the legal laws and to maintain all payroll records accurately. Factory uses the form in accordance with labor law to calculate the workers' wages: a) for night overtime, factory pays 150% and b) for Saturday overtime, factory pays 200%. It shows the wage details in the form, and the wage notes will be given to workers when paying off.

**Supplier CAP Date:** 11/24/2009

**Action Taken:**



**Plan Complete:** No

**Plan Complete Date:**

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**Wages, Benefits and Overtime Compensation: Minimum Wage**

WBOT.2 Employers shall pay workers at least the legal minimum wage or the prevailing industry wage, whichever is higher. (S)

**Noncompliance**

**Explanation:** Due to the inconsistencies noted between the time and payment records provided along with information obtained during the audit, auditors were unable to accurately verify workers' actual working hours, wages and benefits status at the facility.

(Article 48 of PRC Labor Law)

**Plan Of Action:** A conference call was held between representatives from both PCs (HBI and EBI) on October 5 to understand the audit findings and to discuss the plan for factory action. A discussion with factory manager was held on October 19 with HBI and EBI over the phone. The inconsistent record keeping issue was highly addressed to the factory and the consequences of falsified records were emphasized. Factory Manager appears to be aware of the seriousness. Both PCs received the first draft reply from factory on October 29, which looks too simple and lacks commitment. Representative from factory's HK vendor was invited for a face-to-face meeting. The seriousness of inconsistent record keeping was emphasized again. The vendor admitted that some workers from two production lines worked on those Sundays and committed to compensate those working hours correctly. A finalized factory CAP was received on November 20. Both PCs reviewed and agreed to have a first follow-up visit around December 2009 or January 2010 to rectify the compliance of working hours, payment and benefits. The next follow-up visit was planned in the next 3 to 4 months after the first visit. PC will keep following up with factory about the supporting documents.

**Deadline Date:** 12/31/2010





**Supplier  
CAP:**

Due to sewing workers being paid piece rate, some of them will work on Sunday on their own without the company's approval. Their group leader may want to get a better record of the production rate and allow the workers to work overtime without notice from the company. Factory has investigated the dates mentioned and found that some workers had not followed the rule to not work on holidays; except for January 18, 2009, when there should be no workers at work due to this date being Chinese New Year holiday. Factory paid back all the wages to workers involved in Sunday work. Those days included January 4, 2009 (4 workers), June 28, 2009 (4 workers), July 5 and 9, 2009 (10 workers) and August 16, 2009 (7 workers). Pay slips were provided for review. To ensure that the workers are only allowed to work overtime under the acknowledgement and permission of factory management, factory arranged security guards to lock all doors to the work floors. A security logbook will be maintained from February 2010 on. Factory committed to pay all overtime hours under legal law and to maintain all payroll records accurately. Factory uses the form in accordance with labor law to calculate the workers' wages: a) for night overtime, factory pays 150% and b) for Saturday overtime, factory pays 200%. It shows the wage details in the form, and the wage notes will be given to workers when paying off.

**Supplier CAP** 11/24/2009  
**Date:**

**Action  
Taken:**

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

**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)

**Noncompliance**

**Explanation:** The wages of resigned workers were not paid to workers on their last working day.

(Article 35 of Regulations on Wage Payment of [Province name] Province, PRC)

**Plan Of Action:** During the conversation with factory manager and their HK vendor, it was noted that factory can only issue payment on the next day of workers' resignation, due to the piece rate calculation time required from the accounting department. PCs will verify the situation in follow-up visit.

**Deadline Date:** 01/31/2010

**Supplier CAP:** Wages are calculated based on piece rate; therefore, record cannot be updated on the same day of the workers' leave. Due to this delay, factory can only pay workers on the next day. Factory has improved the wage payment system for off-duty workers and will pay off all wages timely for workers when they leave the factory.

**Supplier CAP Date:** 11/20/2009

**Action Taken:**

**Plan Complete:** No

**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)

### **Noncompliance**

**Explanation:** Due to the inconsistencies noted between the time and payment records provided along with other information obtained during the audit, auditors were unable to accurately verify workers' actual working hours, wages and benefits status at the facility.

(Article 48,44 of PRC Labor Law)

**Plan Of Action:** A conference call was held between representatives from both PCs (HBI and EBI) on October 5 to understand the audit findings and to discuss the plan for factory action. A discussion with factory manager was held on October 19 with HBI and EBI over the phone. The inconsistent record keeping issue was highly addressed to the factory and the consequences of falsified records were emphasized. Factory Manager appears to be aware of the seriousness. Both PCs received the first draft reply from factory on October 29, which looks too simple and lacks commitment. Representative from factory's HK vendor was invited for a face-to-face meeting. The seriousness of inconsistent record keeping was emphasized again. The vendor admitted that some workers from two production lines worked on those Sundays and committed to compensate those working hours correctly. A finalized factory CAP was received on November 20. Both PCs reviewed and agreed to have a first follow-up visit around December 2009 or January 2010 to rectify the compliance of working hours, payment and benefits. The next follow-up visit was planned in the next 3 to 4 months after the first visit. PC will keep following up with factory about the supporting documents.

**Deadline Date:** 12/31/2010



**Supplier CAP:** Due to sewing workers being paid piece rate, some of them will work on Sunday on their own without the company's approval. Their group leader may want to get a better record of the production rate and allow the workers to work overtime without notice from the company. Factory has investigated the dates mentioned and found that some workers had not followed the rule to not work on holidays; except for January 18, 2009, when there should be no workers at work due to this date being Chinese New Year holiday. Factory paid back all the wages to workers involved in Sunday work. Those days included January 4, 2009 (4 workers), June 28, 2009 (4 workers), July 5 and 9, 2009 (10 workers) and August 16, 2009 (7 workers). Pay slips were provided for review. To ensure that the workers are only allowed to work overtime under the acknowledgement and permission of factory management, factory arranged security guards to lock all doors to the work floors. A security logbook will be maintained from February 2010 on. Factory committed to pay all overtime hours under the legal laws and to maintain all payroll records accurately. Factory uses the form in accordance with labor law to calculate the workers' wages: a) for night overtime, factory pays 150% and b) for Saturday overtime, factory pays 200%. It shows the wage details in the form, and the wage notes will be given to workers when paying off.

**Supplier CAP** 11/24/2009  
**Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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### **Wages, Benefits and Overtime Compensation: Calculation Basis for Overtime Payments**

WBOT.8 Employers shall compensate workers for all hours worked. For workers on a piece rate payment scheme or any other incentive scheme, payments for overtime hours worked shall be calculated by applying the premium rate required by law or this Code on the same payment scheme as is used for calculating wages for normal working hours, unless the payment scheme used leads to higher wages for workers. (S)

#### **Noncompliance**

**Explanation:** Due to the inconsistencies noted between the time and payment records provided along with other information obtained during the audit, auditors were unable to accurately verify workers' actual working hours, wages and benefits status at the facility.

(Article 38, 41 & 44 of PRC Labor Law)

**Plan Of Action:** A conference call was held between representatives from both PCs (HBI and EBI) on October 5 to understand the audit findings and to discuss the plan for factory action. A discussion with factory manager was held on October 19 with HBI and EBI over the phone. The inconsistent record keeping issue was highly addressed to the factory and the consequences of falsified records were emphasized. Factory Manager appears to be aware of the seriousness. Both PCs received the first draft reply from factory on October 29, which looks too simple and lacks commitment. Representative from factory's HK vendor was invited for a face-to-face meeting. The seriousness of inconsistent record keeping was emphasized again. The vendor admitted that some workers from two production lines worked on those Sundays and committed to compensate those working hours correctly. A finalized factory CAP was received on November 20. Both PCs reviewed and agreed to have a first follow-up visit around December 2009 or January 2010 to rectify the compliance of working hours, payment and benefits. The next follow-up visit was planned in the next 3 to 4 months after the first visit. PC will keep following up with factory about the supporting documents.

**Deadline Date:** 12/31/2010



**Supplier CAP:** Due to sewing workers being paid piece rate, some of them will work on Sunday on their own without the company's approval. Their group leader may want to get a better record of the production rate and allow the workers to work overtime without notice from the company. Factory has investigated the dates mentioned and found that some workers had not followed the rule to not work on holidays; except for January 18, 2009, when there should be no workers at work due to this date being Chinese New Year holiday. Factory paid back all the wages to workers involved in Sunday work. Those days included January 4, 2009 (4 workers), June 28, 2009 (4 workers), July 5 and 9, 2009 (10 workers) and August 16, 2009 (7 workers). Pay slips were provided for review. To ensure that the workers are only allowed to work overtime under the acknowledgement and permission of factory management, factory arranged security guards to lock all doors to the work floors. A security logbook will be maintained from February 2010 on. Factory committed to pay all overtime hours under the legal laws and to maintain all payroll records accurately. Factory uses the form in accordance with labor law to calculate the workers' wages: a) for night overtime, factory pays 150% and b) for Saturday overtime, factory pays 200%. It shows the wage details in the form, and the wage notes will be given to workers when paying off.

**Supplier CAP** 11/24/2009  
**Date:**

**Action Taken:**

**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)

### **Noncompliance**

**Explanation:** Due to the inconsistencies noted between the time and payment records provided along with other information obtained during the audit, auditors were unable to accurately verify workers' actual working hours, wages and benefits status at the facility.

(Article 44, 48 of PRC Labor Law)

**Plan Of Action:** A conference call was held between representatives from both PCs (HBI and EBI) on October 5 to understand the audit findings and to discuss the plan for factory action. A discussion with factory manager was held on October 19 with HBI and EBI over the phone. The inconsistent record keeping issue was highly addressed to the factory and the consequences of falsified records were emphasized. Factory Manager appears to be aware of the seriousness. Both PCs received the first draft reply from factory on October 29, which looks too simple and lacks commitment. Representative from factory's HK vendor was invited for a face-to-face meeting. The seriousness of inconsistent record keeping was emphasized again. The vendor admitted that some workers from two production lines worked on those Sundays and committed to compensate those working hours correctly. A finalized factory CAP was received on November 20. Both PCs reviewed and agreed to have a first follow-up visit around December 2009 or January 2010 to rectify the compliance of working hours, payment and benefits. The next follow-up visit was planned in the next 3 to 4 months after the first visit. PC will keep following up with factory about the supporting documents.

**Deadline Date:** 12/31/2010



**Supplier CAP:** Due to sewing workers being paid piece rate, some of them will work on Sunday on their own without the company's approval. Their group leader may want to get a better record of the production rate and allow the workers to work overtime without notice from the company. Factory has investigated the dates as mentioned and found that some workers had not followed the rule to not work on holidays; except for January 18, 2009, when there should be no workers at work due to this date being Chinese New Year holiday. Factory paid back all the wages to workers involved in Sunday work. Those days included January 4, 2009 (4 workers), June 28, 2009 (4 workers), July 5 and 9, 2009 (10 workers) and August 16, 2009 (7 workers). Pay slips were provided for review. To ensure that the workers are only allowed to work overtime under the acknowledgement and permission of factory management, factory arranged security guards to lock all doors to the work floors. A security logbook will be maintained from February 2010 on. Factory committed to pay all overtime hours under the legal laws and to maintain all payroll records accurately. Factory uses the form in accordance with labor law to calculate the workers' wages: a) for night overtime, factory pays 150% and b) for Saturday overtime, factory pays 200%. It shows the wage details in the form, and the wage notes will be given to workers when paying off.

**Supplier CAP** 11/24/2009  
**Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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## **Wages, Benefits and Overtime Compensation: Accurate Calculation and Recording of Wage Compensation**

WBOT.17 All payments to workers, including hourly wages, piecework, benefits, bonuses, and other incentives shall be calculated and recorded accurately. (S)

### **Noncompliance**

**Explanation:** Due to the inconsistencies noted between the time and payment records provided along with other information obtained during the audit, auditors were unable to accurately verify workers' actual working hours, wages and benefits status at the facility.

**Plan Of Action:** A conference call was held between representatives from both PCs (HBI and EBI) on October 5 to understand the audit findings and to discuss the plan for factory action. A discussion with factory manager was held on October 19 with HBI and EBI over the phone. The inconsistent record keeping issue was highly addressed to the factory and the consequences of falsified records were emphasized. Factory Manager appears to be aware of the seriousness. Both PCs received the first draft reply from factory on October 29, which looks too simple and lacks commitment. Representative from factory's HK vendor was invited for a face-to-face meeting. The seriousness of inconsistent record keeping was emphasized again. The vendor admitted that some workers from two production lines worked on those Sundays and committed to compensate those working hours correctly. A finalized factory CAP was received on November 20. Both PCs reviewed and agreed to have a first follow-up visit around December 2009 or January 2010 to rectify the compliance of working hours, payment and benefits. The next follow-up visit was planned in the next 3 to 4 months after the first visit. PC will keep following up with factory about the supporting documents.

**Deadline Date:** 12/31/2010



**Supplier CAP:** Due to sewing workers being paid piece rate, some of them will work on Sunday on their own without the company's approval. Their group leader may want to get a better record of the production rate and allow the workers to work overtime without notice from the company. Factory has investigated the dates as mentioned and found that some workers had not followed the rule to not work on holidays; except for January 18, 2009, when there should be no workers at work due to this date being Chinese New Year holiday. Factory paid back all the wages to workers involved in Sunday work. Those days included January 4, 2009 (4 workers), June 28, 2009 (4 workers), July 5 and 9, 2009 (10 workers) and August 16, 2009 (7 workers). Pay slips were provided for review. To ensure that the workers are only allowed to work overtime under the acknowledgement and permission of factory management, factory arranged security guards to lock all doors to the work floors. A security logbook will be maintained from February 2010 on. Factory committed to pay all overtime hours under the legal laws and to maintain all payroll records accurately. Factory uses the form in accordance with labor law to calculate the workers' wages: a) for night overtime, factory pays 150% and b) for Saturday overtime, factory pays 200%. It shows the wage details in the form, and the wage notes will be given to workers when paying off.

**Supplier CAP** 11/24/2009  
**Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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### **Wages, Benefits and Overtime Compensation: False Payroll Records**

WBOT.19 Employers shall not use hidden or multiple payroll records in order to hide overtime, to falsely demonstrate hourly wages, or for any other fraudulent reason. Payroll records maintained shall be authentic and accurate. (P)

#### **Noncompliance**

**Explanation:** Based on the review of the payment records provided, it was noted that only sewing workers were paid by piece rate and other workers were paid by hourly rate. It was reported that workers were paid through bank transfer. Based on the corresponding time and payment records provided, no worker was paid below the local minimum wage of 770 RMB per month and overtime hours were paid at 150% of normal rate and 200% of normal rate for the night overtime and rest day overtime, respectively. The working hours showed on the payment records perfectly matched with the time records provided. However, it was noted that some night overtime hours and overtime on Sundays was not properly recorded on the time and payment record provided. Hence, it was noted that time and payment records provided were unreliable and did not accurately reflect workers' actual working hours, wages and benefits status at the facility.

(Article 38, 41, 48, 44 of PRC Labor Law)

**Plan Of Action:** A conference call was held between representatives from both PCs (HBI and EBI) on October 5 to understand the audit findings and to discuss the plan for factory action. A discussion with factory manager was held on October 19 with HBI and EBI over the phone. The inconsistent record keeping issue was highly addressed to the factory and the consequences of falsified records were emphasized. Factory Manager appears to be aware of the seriousness. Both PCs received the first draft reply from factory on October 29, which looks too simple and lacks commitment. Representative from factory's HK vendor was invited for a face-to-face meeting. The seriousness of inconsistent record keeping was emphasized again. The vendor admitted that some workers from two production lines worked on those Sundays and committed to compensate those working hours correctly. A finalized factory CAP was received on November 20. Both PCs reviewed and agreed to have a first follow-up visit around December 2009 or January 2010 to rectify the compliance of working hours, payment and benefits. The next follow-up visit was planned in the next 3 to 4 months after the first visit. According to the provided document, the factory seems to comply with the local law and paying 150%, 200% and 300%. PC will keep following up with factory about the supporting documents.

**Deadline Date:** 12/31/2010



**Supplier  
CAP:**

Due to sewing workers being paid piece rate, some of them will work on Sunday on their own without the company's approval. Their group leader may want to get a better record of the production rate and allow the workers to work overtime without notice from the company. Factory has investigated the dates mentioned and found that some workers had not followed the rule to not work on holidays; except for January 18, 2009, when there should be no workers at work due to this date being Chinese New Year holiday. Factory paid back all the wages to workers involved in Sunday work. Those days included January 4, 2009 (4 workers), June 28, 2009 (4 workers), July 5 and 9, 2009 (10 workers) and August 16, 2009 (7 workers). Pay slips were provided for review. To ensure that the workers are only allowed to work overtime under the acknowledgement and permission of factory management, factory arranged security guards to lock all doors to the work floors. A security logbook will be maintained from February 2010 on. Factory committed to pay all overtime hours under the legal laws and to maintain all payroll records accurately. Factory uses the form in accordance with labor law to calculate the workers' wages: a) for night overtime, factory pays 150% and b) for Saturday overtime, factory pays 200%. It shows the wage details in the form, and the wage notes will be given to workers when paying off.

**Supplier CAP** 11/20/2009  
**Date:**

**Action  
Taken:**

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

**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           No  
Complete:**

**Plan  
Complete  
Date:**



**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:** The disciplinary procedure did not include a system or channel that would allow a worker to appeal and/or question any disciplinary action against them and/or have a third party of their choice present when disciplinary action is being imposed.

**Plan Of Action:** During the meeting with factory manager and vendor representative, the requirement was discussed with factory. The factory agreed to revise the employee handbook and include an appealing channel for any disciplinary action against workers. PCs will verify it in the coming follow-up visits.

**Deadline Date:** 01/31/2010

**Supplier CAP:** Factory has a labor manual passed to all workers to review with an explanation of rules to let them fully understand the labor law. For the complaint system, factory has been improving it and has implemented a labor union supervision system. The system allows workers to complain and claim in several ways, including a suggestion box and telephone, without letting others know. Factory will include the appeal and/or questions about disciplinary action against workers into their grievance procedures. A meeting will be held and communicated to all workers in February 2010.

**Supplier CAP Date:** 11/20/2009

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**



## 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:** There was improper age limit on the recruitment advertisement, which stated that only workers above 18 years of age will be considered.

**Plan Of Action:** During the meeting with factory manager and vendor representative, the non-discrimination requirement was discussed with factory. The factory agreed to revise the employee handbook to reflect that there is no intention to discriminate against workers under 18 from working in the factory; however, all respective legal requirements must be followed. PCs will verify this during follow-up visits.

**Deadline Date:** 01/31/2010

**Supplier CAP:** Factory has revised the recruitment advertisement based on national labor law.

**Supplier CAP Date:** 11/20/2009

**Action Taken:** January 18, 2010: Factory revised employee handbook to reflect there is no intention to discriminate against workers under 18 from working in the factory; however, all respective legal requirements must be followed. Employee handbook was provided for review. It confirmed the corrective action.

**Plan Complete:** Yes

**Plan Complete Date:** 01/18/2010

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## Miscellaneous: Illegal Subcontracting

MISC.1 Illegal Subcontracting

### Uncorroborated Evidence of Noncompliance

**Explanation:** 1. As per production-related records, it was noted that factory subcontracted some production orders for other sister factories in the same industrial compound to complete. However, they reported that they did not subcontract the product of the company to other factories.

2. During this audit, factory reported that they only consist of one 5-story production building and one block of 4-story dormitories in the compound. As per other information obtained, there was another block of production buildings (#4 workshop of this factory), which was next to the 5-story production building, also belonging to the factory. In addition, the swapping of workforce was also noted between them. But, factory did not allow this audit to cover this additional block of production buildings, as they reported that the production consisted only of one block of 5-story production buildings. Therefore, auditors were unable to cover this additional block of buildings. Per information collected, there were more than 200 workers working at this additional building. Auditors were unable to properly verify the compliance status of workers' ages at this additional building, due to not being granted access.

**Plan Of Action:** After several conversations with factory and vendor, it was noted that the suspicious subcontractor (#4 workshop) belonged to the previous owner of the factory group. The audited factory has no relationship with factory and never shares workers or production between the workshops. Both factories have separate factory licenses, separate factory management and separate payrolls. A copy was provided for review. To avoid any claims of illegal subcontracting, PCs highly recommend the factory to change all workers' badges immediately. New and old workers' badges were provided for review. PCs will follow up the issue in the follow-up visit.

**Deadline Date:** 01/31/2010





**Supplier CAP:** The fourth plant belonged to factory before September 1, 2008. Due to the financial crisis, orders decreased and they could not afford it due to the company's situation. Factory closed it on September 1, 2008, and transferred it to another enterprise. Now, factory has changed the factory cards. Factory committed only to place EBI production in audited facility, and to not use any unauthorized subcontractors. Factory admitted that workers may have worked in the other factory, under the same group, for help during an extreme peak season in the past. This practice had been stopped since the FLA audit. All the workers' badges and related documents were separated after the FLA audit, in order to refuse any claims of illegal subcontracting. Factory manager claimed that workers, payroll and management are different from the rest of the factories next to them, although they are within the same compound. Dormitory of factory workers is separated in one building within the same factory compound. Canteen, however, was shared with the other vendor.

**Supplier CAP Date:** 11/20/2009

**Action Taken:** January 18, 2010: During the factory walkthrough, it was observed that workers' badges were separated with the #4 workshop. There are four buildings inside the same factory compound; three buildings belong to the other factory. There is only one building for the audited factory to produce EBI products. Factory license was provided for review. There is no EBI production observed in the rest of the factory buildings. The claims from factory management were verified by EBI auditor during the visit.

**Plan Complete:** Yes

**Plan Complete Date:** 01/18/2010

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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. Some emergency lighting in the workshop was not functioning.

(Article 10.2.6 of the Fire Prevention Standard for Building Design (new revision of GBJ 16-87) of PRC).

2. Some fire extinguishers were blocked by materials, and at least one fire extinguisher was put on the floor and not properly mounted.

**Plan Of Action:** All the health and safety issues were discussed with factory and they agreed to take corrective actions immediately. PCs will verify the corrections during follow-up visits.

**Deadline Date:** 01/31/2010

**Supplier CAP:** Factory had arranged a person to check the fire protection equipment one time each month. Now factory has it checked once a week and will arrange a supervisor to check at random, in order to ensure all fire protection equipment operates well.

**Supplier CAP Date:** 11/20/2009

**Action Taken:** During the walkthrough of the work floor, emergency lights were properly functioning and fire extinguishers were free of access.

**Plan Complete:** Yes

**Plan Complete Date:** 01/18/2010



## 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:** During factory tour, it was noted that some workers did not use the protective eye shield while operating the overlock stitching machines. Also, there was at least one overlock stitching machine not equipped with a protective eye shield.

**Plan Of Action:** All the health and safety issues were discussed with the factory, and they agreed to take corrective actions immediately. PCs will verify the corrections during follow-up visits.

**Deadline Date:** 01/31/2010

**Supplier CAP:** All machines have been equipped with protective devices and will be timely checked. Factory has emphasized that it is very important to use the equipment correctly in the monthly safety meeting. However, workers think that using protective devices will slow down their work and drop their productivity; consequently, they are unwilling to use them. Factory will train workers and make them realize the importance of using protective devices in accordance with safety requirements.

**Supplier CAP Date:** 11/20/2009

**Action Taken:** January 18, 2010: During the walkthrough of the work floor, it was observed that eye shields were equipped on overlock stitching machines.

**Plan Complete:** Yes

**Plan Complete Date:** 01/18/2010

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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)

### Noncompliance

**Explanation:** Due to the inconsistencies noted between time records, along with other records and information provided during the audit, auditors were unable to accurately verify workers' actual working hours, holidays and leave status at the facility.

(Article 38, 41, 45, 51 of PRC Labor Law)

**Plan Of Action:** A conference call was held between representatives from both PCs (HBI and EBI) on October 5 to understand the audit findings and to discuss the plan for factory action. A discussion with the factory manager was held on October 19 with HBI and EBI over the phone. The inconsistent record keeping issue was highly addressed to the factory and the consequences of falsified records were emphasized. Factory manager appears to be aware of the seriousness. Both PCs received the first draft reply from factory on October 29, which looks too simple and lacks commitment. Representative from factory's HK vendor was invited for a face-to-face meeting. The seriousness of inconsistent record keeping was emphasized again. The vendor admitted that some workers from two production lines worked on Sundays and committed to compensate those working hours correctly. A finalized factory CAP was received on November 20. Both PCs reviewed and agreed to have a first follow-up visit around December 2009 or January 2010 to rectify the compliance of working hours, payment and benefits. The next follow-up visit was planned in the next 3 to 4 months after the first visit. According to the provided document, the factory seems to comply with the local law and paying 150%, 200% and 300%. PC will keep following up with factory about the supporting documents.

**Deadline Date:** 12/31/2010



**Supplier CAP:** Due to sewing workers being paid piece rate, some of them will work on Sunday on their own without the company's approval. Their group leader may want to get a better record of the production rate and allow the workers to work overtime without notice from the company. Factory has investigated the dates mentioned and found that some workers had not followed the rule to not work on holidays; except for January 18, 2009, when there should be no workers at work due to this date being Chinese New Year holiday. Factory paid back all the wages to workers involved in Sunday work. Those days included January 4, 2009 (4 workers), June 28, 2009 (4 workers), July 5 and 9, 2009 (10 workers) and August 16, 2009 (7 workers). Pay slips were provided for review. To ensure that the workers are only allowed to work overtime under the acknowledgement and permission of factory management, factory arranged security guards to lock all doors to the work floors. A security logbook will be maintained from February 2010 on. Factory committed to pay all overtime hours under the legal laws and to maintain all payroll records accurately. Factory uses the form in accordance with labor law to calculate the workers' wages: a) for night overtime, factory pays 150% and b) for Saturday overtime, factory pays 200%. It shows the wage details in the form, and the wage notes will be given to workers when paying off.

**Supplier CAP** 11/24/2009  
**Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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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:** Due to the inconsistencies noted between the time records along with other records and information obtained during the audit, auditors were unable to accurately verify workers' consecutive work days at the facility.

(Article 38 of PRC Labor Law)

**Plan Of Action:** A conference call was held between representatives from both PCs (HBI and EBI) on October 5 to understand the audit findings and to discuss the plan for factory action. A discussion with factory manager was held on October 19 with HBI and EBI over the phone. The inconsistent record keeping issue was highly addressed to the factory and the consequences of falsified records were emphasized. Factory manager appears to be aware of the seriousness. Both PCs received the first draft reply from factory on October 29, which looks too simple and lacks commitment. Representative from factory's HK vendor was invited for a face-to-face meeting. The seriousness of inconsistent record keeping was emphasized again. The vendor admitted that some workers from two production lines worked on Sundays and committed to compensate those working hours correctly. A finalized factory CAP was received on November 20. Both PCs reviewed and agreed to have a first follow-up visit around December 2009 or January 2010 to rectify the compliance of working hours, payment and benefits. The next follow-up visit was planned in the next 3 to 4 months after the first visit. According to the provided document, the factory seems to comply with the local law and paying 150%, 200% and 300%. PC will keep following up with factory about the supporting documents.

**Deadline Date:** 12/31/2010



**Supplier CAP:** Due to sewing workers being paid piece rate, some of them will work on Sunday on their own without the company's approval. Their group leader may want to get a better record of the production rate and allow the workers to work overtime without notice from the company. Factory has investigated the dates mentioned and found that some workers had not followed the rule to not work on holidays; except for January 18, 2009, when there should be no workers at work due to this date being Chinese New Year holiday. Factory paid back all the wages to workers involved in Sunday work. Those days included January 4, 2009 (4 workers), June 28, 2009 (4 workers), July 5 and 9, 2009 (10 workers) and August 16, 2009 (7 workers). Pay slips were provided for review. To ensure that the workers are only allowed to work overtime under the acknowledgement and permission of factory management, factory arranged security guards to lock all doors to the work floors. A security logbook will be maintained from February 2010 on. Factory committed to pay all overtime hours under the legal laws and to maintain all payroll records accurately. Factory uses the form in accordance with labor law to calculate the workers' wages: a) for night overtime, factory pays 150% and b) for Saturday overtime, factory pays 200%. It shows the wage details in the form, and the wage notes will be given to workers when paying off.

**Supplier CAP** 11/24/2009  
**Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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### **Hours of Work: Time Recording System**

HOW.6 Time worked by all workers, regardless of compensation system, shall be fully documented by time cards or other accurate and reliable recording systems such as electronic swipe cards. Employers are prohibited from maintaining multiple time-keeping systems and/or false records for any fraudulent reason, such as to falsely demonstrate working hours. Time records maintained shall be authentic and accurate. (P)

#### **Noncompliance**

**Explanation:** During the audit, it was noted that the factory used an electronic time recording system to record workers' attendance. It was noted that workers' regular working hours were between 08:00 – 12:00 and 13:30 – 17:30; night overtime was occasionally arranged in between 19:00 – 22:00, but only on rare occasions. The regular workweek was from Monday to Friday. Workers were required to work Saturday overtime frequently. Based on the time records provided, it was noted that the majority of workers' weekly hours were between 48 – 54 hours. Workers' monthly overtime hours did not exceed 36 hours a month. However, various inconsistencies were found between time and payment records, along with other information collected during the audit. Production related records showed that workers were working on various Sundays, such as January 4 and 18, 2009; June 28, 2009; July 5 and 19, 2009; August 16, 2009, etc. However, corresponding time and payment records of respective workers showed that they were off on these dates. Additionally, various records showed that workers were required to work night overtime for either 3 hours or more frequently. Time records of respective workers showed that workers were either not working night overtime or only worked overtime for 3 hours. In view of the above, auditors concluded that the time and payment records were unreliable and failed to accurately reflect workers' actual working hours, wages and benefits at the facility.

(Article 38, 41, 48, 44 of PRC Labor Law)





**Plan Of Action:** A conference call was held between representatives from both PCs (HBI and EBI) on October 5 to understand the audit findings and to discuss the plan for factory action. A discussion with factory manager was held on October 19 with HBI and EBI over the phone. The inconsistent record keeping issue was highly addressed to the factory and the consequences of falsified records were emphasized. Factory manager appears to be aware of the seriousness. Both PCs received the first draft reply from factory on October 29, which looks too simple and lacks commitment. Representative from factory's HK vendor was invited for a face-to-face meeting. The seriousness of inconsistent record keeping was emphasized again. The vendor admitted that some workers from two production lines worked on Sundays and committed to compensate those working hours correctly. A finalized factory CAP was received on November 20. Both PCs reviewed the CAP and agreed to have a first follow-up visit around December 2009 or January 2010 to rectify the compliance of working hours, payment and benefits. The next follow-up visit was planned in the next 3 to 4 months after the first visit. According to the provided document, the factory seems to comply with the local law and paying 150%, 200% and 300%. PC will keep following up with factory about the supporting documents.

**Deadline Date:** 12/31/2010

**Supplier CAP:** Due to sewing workers being paid piece rate, some of them will work on Sunday on their own without the company's approval. Their group leader may want to get a better record of the production rate and allow the workers to work overtime without notice from the company. Factory has investigated the dates as mentioned and found that some workers had not followed the rule to not work on holidays; except for January 18, 2009, when there should be no workers at work due to this date being Chinese New Year holiday. Factory paid back all the wages to workers involved in Sunday work. Those days included January 4, 2009 (4 workers), June 28, 2009 (4 workers), July 5 and 9, 2009 (10 workers) and August 16, 2009 (7 workers). Pay slips were provided for review. To ensure that the workers are only allowed to work overtime under the acknowledgement and permission of factory management, factory arranged security guards to lock all doors to the work floors. A security logbook will be maintained from February 2010 on. Factory committed to pay all overtime hours under the legal laws and to maintain all payroll records accurately. Factory uses the form in accordance with labor law to calculate the workers' wages: a) for night overtime, factory pays 150% and b) for Saturday overtime, factory pays 200%. It shows the wage details in the form, and the wage notes will be given to workers when paying off.

**Supplier CAP Date:** 11/24/2009

**Action Taken:**



**Plan Complete:** No

**Plan Complete Date:**

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### Hours of Work: Sick Leave/Restrictions

HOW.20 Employers shall not impose any undue restrictions on sick leave. Any factory restrictions or procedures regarding sick leave, such as informing the employer as soon as possible, the provision of medical certificates, the use of designated doctors or hospitals, etc., must be in line with local laws, regulations and procedures and must be communicated in full to all workers. (S)

#### Noncompliance

**Explanation:** The paid sick leave policy was not properly communicated to all workers. Per information provided by the factory, no worker has ever applied for paid sick leave.

**Plan Of Action:** The issue was discussed with factory; they agreed to communicate the sick leave system with the workers, as well as the legal requirements for applying paid sick leave. PCs will verify this in follow-up visits.

**Deadline Date:** 01/31/2010

**Supplier CAP:** Factory implemented all systems according to national labor law, including paid annual leave for workers. For the sick leave, wages won't be deducted for one day's sick leave. For sick leaves more than two days, normal hospital proof needs to be present in order to avoid workers unreasonably asking for leave. If workers can't show the proof, factory will define it as personal leave. Factory will set up a new system to implement the sick leave, and records will be kept by the factory manager.

**Supplier CAP Date:** 11/20/2009



**Action Taken:** January 18, 2010: Training will be held by factory in the middle of February 2010 to communicate with all workers about the paid sick leave policy. Training document will be provided for review. A column will be added to the payroll record after consulting with their payroll software consulting company on its feasibility.

January 28, 2010: PC will keep following up with factory.

**Plan Complete:** No

**Plan Complete Date:**

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