



2010

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** Nike, Inc.  
**COUNTRY:** China  
**FACTORY CODE:** 0700151216I  
**MONITOR:** Openview Service Limited  
**AUDIT DATE:** September 21, 2010  
**PRODUCTS:** Shoes  
**PROCESSES:** Cutting, Sewing, Pressing,  
Packing  
**NUMBER OF WORKERS:** 1411



## CONTENTS:

Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses .....	3
Freedom of Association: Right to Freely Associate.....	5
Harassment or Abuse: Discipline/Worker Awareness and Participation of Workers .....	6
Code Awareness:.....	7
Code Awareness:.....	8
Health and Safety: Permits and Certificates .....	9
Health and Safety: Evacuation Requirements and Procedure.....	10
Health and Safety: Machinery Maintenance and Worker Training .....	11
Health and Safety: Other - Health and Safety.....	13
Hours of Work: General Compliance Hours of Work.....	14
Hours of Work: Sick Leave .....	15



## **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:** According to the insurance receipt of August 10, 2010, issued by the local bank, the factory only provided pension, medical, unemployment, work-related injury insurance for 817 out of a total 1411 employees. The factory purchased commercial group accident insurance for 800 employees.

Legal Reference: Article 73 of PRC Labor Law

**Plan Of Action:** The factory must provide all 5 types of social insurance for all employees in accordance with national law.

**Deadline Date:** 05/31/2013

**Action Taken:** PC's labor audit, May 24, 2012: Per social insurance receipt, 358 of 851 workers (42%) are participating in pension and unemployment insurance, 805 employees (95%) were registered for work-related injury and medical insurance (bound with maternity insurance) in April 2012. The factory provided additional commercial accident insurance for 350 employees. This insurance is valid period is from October 19, 2011 to October 18, 2012. There were 199 employees on probation time. The factory is committed to continue reaching 100% social insurance coverage by end of May 31, 2013. Implementations of priorities are as follows:

1. 100% of all employees will have injury insurance by May 31, 2013.
2. The factory will use the following timeframe to work towards full social insurance coverage for all employees:

August 31, 2012: 70%  
November 30, 2012: 80%  
February 28, 2013: 90%  
May 31, 2013: 100%



PC's labor audit, December 4, 2012: The factory did not provide all types of social insurance to all employees. Per social insurance participation records from November 2012, only 442 of 1004 workers (44%, excluding 103 probation employees) participated in pension and unemployment insurance, 806 employees (80%) for work-related injury and medical insurance (including maternity insurance) in November 2012. The factory provided additional commercial accident insurance for 350 employees. This insurance is valid from October 18, 2012 to October 17, 2013. Per further communication with the factory's vice general manager, their remediation plan going forward is to increase 10% per month; they will meet 100% timeframe by May 2013.

**Plan Complete:** No

**Plan Complete Date:** 05/31/2013

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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.

Monitor's note: No trade union or worker committee in the factory. Workers said they can raise grievances via suggestion boxes or can directly report to their supervisors.

**Plan Of Action:** We acknowledge that labor relations in China do not meet core ILO standards due to the maturity level of their industrial relations. We acknowledge a long-term, joint advocacy effort is needed to enable better labor relations in China. Nike has met with a number of global organizations, trade unions, non-governmental organizations and multi-stakeholder initiatives regarding our approach to industrial relations. In 2008, Nike, Inc. began implementing Human Resource Management workshops in a number of countries, including China, to raise awareness and good labor practices.

**Deadline Date:** 12/31/2013

**Action Taken:** [PC's labor audit, May 24, 2012](#): The factory has an effective grievance policy in place so that workers can report issues to management. There is a process in place for these issues to be reviewed and acted upon. This process includes necessary training, assigning tasks to responsible person, and communicating back to the workers.

**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:** [Disciplinary record review and interviews with workers and management](#) found that workers did not sign written records of disciplinary actions against them.

**Plan Of Action:** The factory shall establish an effective disciplinary procedure. Deductions from wages shall not be made for disciplinary purposes, nor shall any deductions not provided for by the law of the manufacturing country be permitted without the express written permission of the employee concerned.

**Deadline Date:**

**Action Taken:** [PC's labor audit, May 24, 2012](#): Factory disciplinary policy and procedure review found that the factory revised the procedure to ensure that workers must sign all reward and punishment sheets. Workers and management interviews indicated that factory has no written disciplinary record, but would inform workers if they did.



[PC's labor audit, December 4, 2012](#): It is appropriate policy and procedure to ask for signatures for all punishment and awards records. Disciplinary records and worker interviews found that employees are required to sign on disciplinary records to confirm their disciplinary actions.

**Plan Complete:** Yes

**Plan Complete Date:** 05/24/2012

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### **Code Awareness:**

GEN.2 Ensure that all Company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis.

#### **Noncompliance**

**Explanation:** [Visual inspection and interviews with workers and management found that Nike's Code of Conduct \(COC\) was not posted. Workers were not orally informed of the code or code provisions at the time of induction and on an ongoing basis.](#)

**Plan Of Action:** Post the COC and train workers.

**Deadline Date:** 10/01/2010

**Action Taken:** [PC's labor audit, May 24, 2012](#): Factory posted Nike's COC in English and Chinese and provided training for all workers.

**Plan Complete:** Yes

**Plan Complete Date:** 05/24/2012

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**Code Awareness:**

GEN.3 Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable Company employees and employees of contractors and suppliers to report to the Company on noncompliance with the workplace standards, with security that they shall not be punished or prejudiced for doing so.

**Noncompliance**

**Explanation:** There was no confidential noncompliance reporting mechanism that allowed the workers to contact Nike.

- Plan Of Action:**
1. The factory shall build up communication channels between employees and the management team. Text messages, CR hotlines, suggestion boxes, and employee representatives can be used to facilitate direct contact between employees and management.
  2. The factory shall provide training on communication channels to all employees and update the management team.
  3. Factory management and the person in charge shall review grievance cases every month to see which channels employees mostly favor.

**Deadline Date:**

**Action Taken:** PC's labor audit, May 24, 2012: Employees can raise grievances by using the suggestion boxes, contacting the employee representative directly, or calling or texting HR or the factory general manager. Any case received, HR and the employee representative will investigate together. HR and the employee representative will then provide feedback to the employee.

PC's labor audit, December 4, 2012: The factory set up an internal confidential grievance system between management and workers. As per factory policy and procedure, workers can raise their grievances using suggestion boxes, employee representatives, and hotlines. HR and employee representative will investigate any claims received. All grievances, investigations, and treatment results are recorded in HR department and provided for review. The policy and procedure was communicated to all employees through orientation training when employees were hired and through daily meetings in each department.



Plan Yes  
Complete:

Plan 05/24/2012  
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:** The factory could not provide Building Structure Safety Certificates for the female dormitory, the technical department building, and the 4th floor of the production building (upper material warehouse and finished goods warehouse).

Legal Reference: Article 61 of the PRC Construction Law

**Plan Of Action:** The factory shall obtain building structure certificates from the local authorized bureaus.

**Deadline Date:**

**Action Taken:** [PC's HSE audit, January 12, 2012:](#) Factory has applied for structure fire safety inspection certificate with the local firefighting bureau and received the certificate on May 9, 2011.

[PC's HSE audit, December 6, 2012:](#) We rechecked the available structure fire safety inspection that was issued by the local Fire Bureau in May 2011.

Plan Yes  
Complete:

Plan Complete Date: 05/09/2011

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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:** Based on visual inspection:

1. There was only 1 evacuation exit for the sampling workshop on the 2nd floor of the technical building. The area was about 200 square meters with 40 workers.
2. No exit mark was installed next to the 2 exits of the final products warehouse or upper materials warehouse on the 4th floor of the production building.
3. 3 emergency lights were deactivated.
4. Flammable materials were stored under the stairwells on the first floor of technical department building.

Legal References: 1) Article 3.8.2 of Code of Fire Safety on Building Design (GB50016-2006); 2) Article 11.3.4 of Code of Fire Safety on Building Design (GB50016-2006); 3) Article 11.3.1 of Code of Fire Safety on Building Design (GB50016-2006); 4) Article 7.4.1 of the Code for Design of Building Fire Protection and Prevention (GB50016-2006)

**Plan Of Action:** Factory should ensure at least 2 exits exist in a separate working area. Emergency exit mark should be installed next to the 2 exits of the final production warehouse. All the inactive emergency lights should be maintained to be in good status. The flammable material stored under the stairwells should be removed.

**Deadline**

**Date:**

**Action**

**Taken:**

[PC's HSE audit, January 12, 2012](#): The factory has screened all workshops to provide at least 2 emergency exits, and no blocks of exits found when at audit. The emergency exit marks near the final production warehouse have been installed on the base of finding, and checked by the contracted fire equipment company every month, as well the other emergency response kits, such as lights. On site did not find the flammable material stored under the stairwells.

[PC's HSE audit, December 6, 2012](#): Factory tour found emergency response program runs well, no workshops without 2 emergency exits, all emergency kits effective, fire drills conducted twice per year. Factory contracted with external firefighting company for emergency kit checking, confirmed emergency action got improved.

**Plan**

Yes

**Complete:**

**Plan**

01/12/2012

**Complete**

**Date:**

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

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

#### **Noncompliance**

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

1. 1 shaping machine with 2-handed operating system was changed to 1-hand operation.
2. Safety guards for rotating belts of 2 thread sewing machines on production building's 2<sup>nd</sup> floor were incomplete. Those machines were in use, despite "NO USE" signs on them.

Legal Reference: Article 6.1.6 of Code of Design of Manufacturing Equipment Safety and Hygiene

**Plan Of Action:** Factory shall:

1. Install the double operation device and instruct the workers not to change machinery settings by themselves.
2. Change the setting back to 2-hand operations for the molding machine.

**Deadline Date:**

**Action Taken:** PC's HSE audit, January 12, 2012:

1. Shaping machine with 2-hand operation device recovered, and the training on machine guarding was provided, especially on workers not changing the double operation.
2. On site found, all the sewing machines were fully guarded and properly.

PC's HSE audit, December 6, 2012:  
Confirmed the machine guarding management in this factory got improved.

**Plan Complete:** Yes

**Plan Complete Date:** 01/12/2012

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**Health and Safety: Other - Health and Safety**

Other

**Noncompliance**

**Explanation:** Record review and management interviews revealed that the factory could not provide air quality testing report for workshops where chemicals are used.

Legal Reference: Article 24 of Law of PRC on Prevention and Control of Occupational Diseases

**Plan Of Action:**

1. Factory should identify the hazards of the chemical using areas.
2. Factory should assess the risks through the indoor air quality inspection.
3. Annual occupational health checking should be arranged for the related workers.

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

**Action Taken:** PC's HSE audit, January 2012:  
The factory has the procedure of hazard identification and identified the hazards. Also had the local CDC to measure the indoor air quality in 2011, checked the parameters of the report, all aligned with the local requirements. Checked the annual occupational health files, no cases of illness related with occupation found.

PC's HSE audit, December 6, 2012:  
Checked the IH (Industrial Hygiene) inspection report that was conducted in 2012 by local CDC to find the indoor air quality, dust level, and noise level in alignment with the local limits. Also, factory screened the workers who were exposed into chemical environment for occupational health checking in 2012, the reports provided by local CDC did not show the cases of occupational illness or suspect occupational illness.

**Plan Complete:** Yes

**Plan Complete Date:** 01/12/2012

**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:** From time record review from August 2009 to September 2010, as well as information gathered from workers and management, it was confirmed that about 90% of workers' monthly overtime hours exceeded 36 hours (legal requirement of China), and the maximum was up to 85 hours per month. Before the year of 2010, 50% of workers worked more than 60 hours, up to 65 hours per week at least once in a month. No workers worked more than 60 hours per week in the year of 2010.

Legal Reference: Article 41 of the Labor Law of the PRC

**Plan Of Action:** Factory's employees shall not work in excess of 60 hours per week, or the regular and overtime hours allowed by the laws of the manufacturing country, whichever is less. Any overtime hours are consensual and compensated at a premium rate.

**Deadline Date:** 05/31/2013

**Action Taken:** PC's labor audit, May 24, 2012: Factory already set up working hours control system and all employees' monthly working hours exceed 36 hours, but the annual overtime hours was within 432 hours.

PC's labor audit, December 4, 2012: Per time records, factory control their working hours to within 11 hours per day, 60 hours per week, and 1 day off in 7. However, more than 10% of employees worked over 36 hours in the review months from January – October 2012, and exceeded 432 hours annually. (Factory did not get comprehensive working hours permit from government.)

**Plan Complete:** No

**Plan Complete Date:**

**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:** Factory rule review and interviews with workers and management found that workers could only enjoy 30 days of paid sick leave per year, below legal requirements. According to local law, workers shall have paid sick leave at least 3 months.

Legal Reference: Article 3 of Medical Treatment Period Provision of Corporation Employee Illness or Non Work-related Injury

**Plan Of Action:** Factory must have clearly written policies and procedures regarding legally required holidays and leave (sick, annual, maternity, emergency family, and other) as required by country law. Contractor must effectively communicate leave policy to workers. Factory to train responsible staff on implementing leave policy and their roles and responsibilities.

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

**Action Taken:** [PC's labor audit, May 24, 2012](#): Factory already revised the policies regarding attendance and sick days per local regulation.

[PC's labor audit, December 4, 2012](#): All related leave policy and records were reviewed and confirmed to meet local regulations.

**Plan Complete:** Yes

**Plan Complete Date:** 05/24/2012

**Action Verified:** No

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