



2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: ASICS
COUNTRY: China
FACTORY CODE: 4000150351
MONITOR: Social Compliance Service Asia
(SCSA)
AUDIT DATE: June 22, 2010
PRODUCTS: Knitted Wear
PROCESSES: Cutting, Sewing, Finishing
NUMBER OF WORKERS: 261

FLA Comment: This report was submitted with a corresponding corrective action plan to the FLA and was reviewed by FLA staff. In an effort to improve the effectiveness of remediation, the FLA has provided feedback and recommendations to the company. The FLA has not yet received a response from the company. Therefore, the report is posted in its current state and will be updated once a finalized report has been received.



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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: Local minimum wage requirement was RMB1120 per month. Based on the review of the payment records from June 2009 to May 2010, it was noted that workers were not paid lower than local minimum wage. It was further noted that workers were paid on an hourly rate, and again not lower than local minimum wage of RMB1120 per month. Factory paid the regular wage to workers by bank transfer on the 10th day after the pay period from 26th to 25th of the previous month, but the overtime compensation was paid at the end of next month after the pay period, which is 35 days following the pay period. Therefore, the payday of workers' overtime wage exceeded one month.

Source: Payroll, bank transfers, worker interviews and management information.

Legal reference: In accordance with Article 50 of the Labor Law of the People's Republic of China

Plan Of Action:

1. The factory is recommended to pay overtime wage within a month.
2. The factory is recommended to pay local minimum charge.

Deadline Date: 10/31/2010

Supplier CAP: 1. The factory has changed the payday from 30th to 25th of each month. The factory has paid overtime wages within the last month.

Supplier CAP Date: 08/25/2010

Action Taken: ASICS implemented a follow-up visit and confirmed by documents on July 19, 2011.

1. The factory has changed the payday in April 2011, from 25th of each month to 10th of each month.
2. The factory has paid local minimum wage in Shanghai area.

Plan Complete: Yes

Plan Complete Date: 04/30/2011

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: As per the payroll records provided and management information, factory only paid overtime compensation for rest days at 150% of workers' ordinary rate instead of the mandated premium of 200%.

Sources: Payroll records, management information and worker interviews.

Legal references: In accordance with Article 44 of the Labor Law of the PRC

Plan Of Action: The factory is recommended to pay legal overtime premium. The factory is recommended to post the calculating method of overtime wage, conduct explanatory meeting with workers, and then send documents and photographs to ASICS.

Deadline Date: 10/31/2010

Supplier CAP: Ongoing: The factory has applied the comprehensive working hours system, and has obtained the written approval of from the local Government.

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

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: Factory management could not demonstrate the calculation method of the incentive bonus, which is stated on the payroll. (Due to the fact that the person in charge was not available on the audit date.)

Sources: Documentations and management response.

Legal reference: Article 54 of Opinions on Matters of Carrying out Labour Law of the People' s Republic of China of LMI [1995] No. 309



Plan Of Action: The factory is recommended to post the calculating method of wage, conduct explanatory meeting with the workers and then send documents and photographs to ASICS.

Deadline Date: 10/31/2010

Supplier CAP: The factory replied that due to an illness the factory director absented on the audit date, therefore they could not demonstrate the calculation method of the incentive bonus. The factory posted the calculation method.

Supplier CAP Date: 08/31/2010

Action Taken: ASICS implemented a follow-up visit and confirmed this by documents on July 19, 2011. The factory has posted the calculation method.

Plan Complete: Yes

Plan Complete Date: 04/30/2011



Forced 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: Employee personnel files do not include the registration records. Source: Employment contracts, HR system, management interview.

Plan Of Action: The factory is recommended to store labor contract, ID card, diploma and all similar official documents in the personnel file.

Deadline Date: 10/31/2010

Supplier CAP: The factory replied that they filed these official documents in the personnel file.

Supplier CAP Date: 08/31/2010

Action Taken: ASICS implemented a follow-up visit and confirmed this by documents on July 19, 2011. The factory has filed these official documents in the personnel file.

Plan Complete: Yes

Plan Complete Date: 07/19/2011

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: 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: Factory is recommended to create opportunities for listening to employees' opinions, suggestions and grievances.

Factory is recommended to establish a channel through which workers are able to speak up.

1. Factory is recommended to facilitate dialogue between employer and employee.
 - a. Factory is recommended to create an open-minded written policy and channel to be able to speak up freely.
 - b. Factory is recommended to approach workers in a family-like way.
 - c. Factory is recommended to make direct consultation channels in HR division.
 - d. Factory is recommended to set up opinion boxes.

2. Factory is recommended to establish a forum for dialogue between employer and employee.

a. Factory is recommended to have a written policy for the system of dialogue between employer and employee.

b. Factory is recommended to establish the labor-management committee and Health & Safety committee, and then hold this committee regularly.

c. Factory is recommended to establish a consultation window in workers union.

Workers opinion, grievance and factory reaction:

1. Factory is recommended to post factory's responses.

a. Factory is recommended to record monthly grievances and factory's responses.

b. Factory is recommended to analyze the contents of grievances and review the reactions annually.

Deadline 05/31/2011
Date:

Supplier
CAP:

Supplier
CAP Date:

Action
Taken:

Plan No
Complete:

Plan
Complete
Date:



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: Policy and procedure of Harassment & Abuse were not established in the factory.

Sources: Policy and procedure documentation review, management information

Plan Of Action: According to monthly report to ASICS, factory replied that they already established the rule for harassment and abuse, and they conducted trainings on these issues. In spite of factory's reply, we cannot understand why the FLA auditors determined a noncompliance.

If factory recognized his decision, factory is recommended to establish the rule for harassment and abuse, and then explain it to the management and workers. Factory is also recommended to send these rule and photos about explanatory meeting.

Deadline 10/31/2010

Date:

Supplier

CAP:

Supplier CAP

Date:

Action

Taken:

Plan No

Complete:

Plan

Complete

Date:

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: 1. On the employee handbook it showed that the workers would be deducted three days' wage if they were absent from work without prior notification for one day.

2. On the notice posted at the work floor: Worker will be fined for RMB500 if they are doing personal stuff on floor such as talking, or using factory's material for other non-production purposes, etc.

Source: Handbook and notice, worker and management interviews.

Legal reference: In accordance with Article 50 of the Labor Law of the People's Republic of China

Plan Of Action: In order to prohibit fine, factory is recommended to revise the rule and then send the copy to ASICS.

Deadline Date: 10/31/2010

Supplier CAP: 1. The factory deleted the rule and posted the notice on bulletin boards.
2. The factory removed the notice at the work floor.

Supplier CAP Date: 08/31/2010

Action Taken: Ongoing: The factory explained that this is not a penalty fine system but a penalty point system. If workers got some penalty points, the factory deducted some money from their bonus. The factory does not deduct the money from the monthly wage. If workers behaved good things, they could get some incentive points and the factory pay some additional money on their bonus.

Plan Complete: No

Plan Complete Date:

Child Labor: Other Means of Age Verification

CL.4 In those cases where proof of age documentation is not readily available or unreliable, employers shall take all necessary precautions which can reasonably be expected of them to ensure that all workers are at least the minimum working age, including requesting and maintaining medical or religious records of workers, or through other means considered reliable in the local context. (P)

Noncompliance

Explanation: No age verification policy and procedure was established in the factory.

Sources: documents review, management interview, worker interviews.

Legal Reference: In accordance with Article 4 of State Council Order No. 364 of People's Republic of China "Regulation on Prohibition of Child Labor" (with effect from December 1, 2002)

Plan Of Action: 1. Factory is recommended to establish age verification policy and procedure, and then send it to ASICS.

2. Factory is recommended to specify the checking procedure for fake ID card.

Deadline Date: 10/31/2010

Supplier CAP: 1, 2. Factory replied that they established human resource policy which including age verification procedure.

Supplier CAP Date: 08/31/2010

Action Taken:

Plan Complete: No

Plan Complete Date:

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: Factory could not provide the environmental impact statement for audit. Factory provided the fire permit, which did not include the warehouse located at the 1st floor of a 2-storey building opposite the main production building.

Sources: Factory tour and management information

Legal reference: In accordance with Article 57 of Law of the People's Republic of China on Prevention and Control of Solid Waste Pollution, operation permits for collection. Law Ref: In accordance with Article 13 of Fire Prevention Law of the People's Republic of China

Plan Of Action: The factory is recommended to conduct environmental assessment in work places and maintain the record of assessment. The factory is recommended to obtain fire certification, and then send it to ASICS.

Deadline Date: 10/31/2010

Supplier CAP: 1. The factory replied that they asked a question to the local health bureau. The bureau replied that apparel factories do not necessary to conduct environmental assessment.
2. The factory obtained fire certification.

Supplier CAP Date: 08/31/2010

Action Taken: ASICS implemented a follow-up visit and confirmed this by documents on July 19, 2011.
2.

The Factory has obtained fire certification and the factory return the warehouse to land owner.

Plan No
Complete:

Plan
Complete
Date:

Health and Safety: I. 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: No emergency light was equipped at all the exits of workshops. No fire alarm system or sprinkler system was equipped at the warehouse. Some of the evacuation plot plans were not posted in correct direction according to the layout of the workshops.

Sources: Factory tour. Law Ref: In accordance with Article 26 of the Regulation on Fire-safety Management for State Organs, Organizations, Enterprises and Institutional Organizations

Legal reference: In accordance with Article 11.4.1 of the Fire Prevention Standard for Building Design (GB50016-2006) Law Ref: In accordance with Article 14.6 of the Fire Prevention Law of the People's Republic of China



Plan Of Action: 1. The factory is recommended to install the emergency lights to every exit and work places, and then send photos to ASICS.
2. The factory is recommended to install fire alarm or sprinkler in the warehouse.
3. The factory is recommended to revise the evacuation plot plans, and then send photos to ASICS.

Deadline Date: 10/31/2010

Supplier CAP: 1. The factory has installed the emergency lights to every exit and work places.
3. The factory has revised the evacuation plot plans.

Supplier CAP Date: 06/30/2010

Action Taken: ASICS implemented follow up visit and confirmed by visual check on July 19, 2011.
1. The factory has installed the emergency lights to every exit and work places.
2. The factory has installed fire alarm in the warehouse.
3. The factory has revised the evacuation plot plans.

Plan Complete: Yes

Plan Complete Date: 07/19/2011

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: During factory tour, it was found out that some fire extinguishers were blocked by sundries.

Sources: Factory tour.

Legal reference: In accordance with Article 5.1.3 of the Code for Design of Extinguisher Distribution in Buildings

Plan Of Action: The factory is recommended to tidy working places so that fire extinguishers and fire hydrants are not blocked.

Deadline Date: 10/31/2010

Supplier CAP: The factory has cleared up the working places and posted the warning documents that mentioned not blocking the firefighting equipment.

Supplier CAP Date: 07/15/2010

Action Taken: ASICS implemented follow up visit and confirmed by photographs on August 02, 2011. The factory has drawn borderlines in front of every fire extinguisher.

Plan Complete: Yes

Plan Complete Date: 08/02/2011

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: Chemicals in storage area are not equipped with secondary containers.

Source: Factory tour.

Legal reference: In accordance with article 16 of Regulation for Safety of Dangerous Chemical

Plan Of Action: The factory is recommended to install the secondary container.

Deadline Date: 10/31/2010

Supplier CAP: The factory has installed the secondary container.

Supplier CAP Date:

Action Taken: ASICS implemented a follow-up visit and confirmed by visual check on July 19, 2011. The factory has installed the secondary container.

Plan Complete: Yes

Plan Complete Date: 07/19/2011

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: Most of the stitching machines were not equipped with protective needle guard, and some of the overlock sewing machines were not equipped with protective eye-shield.

Some of the overlock sewing machines did not use the equipped protective eye-shield.

Sources: Factory tour, worker interviews.

Legal reference: In accordance with Article 6.1.6 of Code of Design of Manufacturing Equipment Safety and Hygiene In accordance with Article 37 of Law of the People's Republic of China on Production Safety

Plan Of Action: Factory is recommended to equip sewing machines with needle guards.

Factory is recommended to provide goggles and/or attach protective cover to sewing machines.

Factory is recommended to post signs about wearing appropriate PPE.

Deadline Date: 10/31/2010

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

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: As per the management information, factory used electronic time recording system to record workers' attendance. It was noted that workers' regular working hours were in between 8:30 to 12:00, 13:00 to 17:30, 3-5 hours night overtime started from 18:00 were arranged for workers.

The regular workweek was from Monday to Friday. Saturday overtime was arranged frequently, Sunday work was also arranged sometimes. The weekly working hour ranged between 66 to 85 hours. Overtime waiver issued by local labor bureau was available for review, such as the sewing worker worked 85 hour per week from April 12 to April 18,2010.

Source: Attendance records, worker interviews.

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

Plan Of Action:

1. Factory is recommended to reduce working hours less than 60 hours per week.
2. Factory is recommended to reduce overtime work less than 3 hours per day.

Deadline Date: 05/31/2011

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan
Complete
Date:

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: It was noted that factory did not provide the seventh day rest to workers, such as the sewing workers consecutively worked 37 days from Jan 1, 2010 to Feb 7, 2010.

Sources: Attendance records and worker interviews.

Legal Ref: Article 38 of the Labor Law of the PRC

Plan Of Action: Factory is recommended to provide at least one day off in every 7 days.

Deadline Date: 05/31/2011

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan
Complete
Date:

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: Due to short of papers, factory only provided the printed copy of time record for one employee, and the other selected employee time records were provided in electronic copies. But the factory could not provide the time record of May 26, 2010 to June 21, 2010 for auditors.

Sources: Document, factory management.

Plan Of Action: Regardless of internal or external audit, factory has to submit every document required by auditors. ASICS stipulate that refusing disclosure is material breach. The factory must never do this again. Factory is recommended to maintain working hour records.

Deadline Date: 10/31/2010

Supplier CAP:

Supplier CAP Date:

Action Taken:

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 only provides 60% of legal minimum wage for sick leave benefit instead of 80% as per the legal requirement.

Sources: related document (factory rules), payroll records, management information.
Legal reference: Article 39 of the PRC Labour Contract Law

Plan Of Action: The factory is recommended to pay 80% of minimum wage in case of sick leave for all workers.

Deadline Date: 10/31/2010

Supplier CAP: The factory has applied the local government regulations and will pay 80% of minimum wage in case of sick leave for all workers.

Supplier CAP Date: 08/30/2010

Action Taken: Ongoing: ASICS implemented a follow-up visit and confirmed this by documents on July 19, 2011. The factory has applied the local government regulations that state that the change in compensation from 60% to 100% depends on workers employment years.

Plan Complete: No

Plan Complete Date:
