



2011

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** C.R. Gibson  
**COUNTRY:** China  
**FACTORY CODE:** 12000151303J  
**MONITOR:** Openview Service Limited  
**AUDIT DATE:** August 4 – 5, 2011  
**PRODUCTS:** Colour Boxes  
**PROCESSES:** Cutting, Die-Cutting, Printing,  
UV Varnishing, Box Gluing, Packing  
**NUMBER OF WORKERS:** 458

**FLA Comment:** This report was submitted to the FLA and the FLA-affiliated company by the accredited independent external monitor. Despite deadline reminders and extensions for submission of a corrective action plan, the FLA has not received a plan to address the noncompliances raised in the report. Therefore, the report is posted in its current state and will be updated once a corrective action plan has been submitted to and reviewed by the FLA.



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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:** Only a small number of employees were covered by pension, maternity and unemployment insurances. There were 458 employees in factory on the day of audit. Factory provided work-related injury and medical insurances for all employees. However, only 37 employees covered by pension insurance, 7 employees covered by maternity insurance, and 1 employee covered by unemployment insurance.

Sources: social insurance payment proof from January – July 2011; worker and management interviews

Legal references: Articles 9, 20, 29, 39, and 49 of Social Insurance Law of PRC

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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:** Workers' wages could not be verified accurately due to the following reasons:

1. Related time records were incomplete and/or inaccurate as described in HOW.6.
2. 2 different types of pay slips for 3 resigned workers in October 2010 found during audit. Amount and item breakdown of those 2 kinds of pay slips were different.

Sources: record review; worker and management interviews

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

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

**Noncompliance**

**Explanation:** 80% of interviewed workers knew nothing about the policies on paid maternity leave, sick leave and marriage leave. There were no records showing that workers had ever taken such paid leaves.

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### **Forced Labor: Employment Terms/Prohibitions**

F.4 There can be no employment terms (including in contracts or any other instruments or in any formal or informal recruitment arrangements) which: specify that employees can be confined or be subjected to restrictions on freedom of movement; allow employers to hold wages already earned; provide for penalties resulting in paying back wages already earned; or in any way punish workers for terminating employment. (P)

#### **Noncompliance**

**Explanation:** 1. Workers who resigned during the probation period would not get payment if they worked for the factory for less than 7 days.

2. Workers who resigned urgently would be deducted 20% of the last month's total wages. No actual payment deduction was found during audit.

Sources: notice posted at gate of security guard room; worker and management interviews

Legal references: Articles 22, 23 and 25 of China Labor Contract law

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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 Findings:** No trade union in factory. Factory had set up worker representative mechanism. 2 worker representatives elected by workers, and they have meetings with management periodically.

Sources: document review; worker and management interviews

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

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

**Noncompliance**

**Explanation:** Disciplinary system did not include possibilities for workers to have disciplinary action imposed on them reviewed by someone at a higher managerial position than manager who imposed disciplinary action or include ability of 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 was being imposed.

Sources: procedure review, management interviews

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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:** No discipline records for the past 2 years. Management explained that no workers had violated factory rules seriously in the past 2 years.

Sources: document review, management interviews

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

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

**Noncompliance**

**Explanation:** An age limit was noted in the notice posted at gate of the security guard room, which regulated that factory would not recruit workers below 18 years of age.

Source: factory walkthrough

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

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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:** No C.R. Gibson Code of Conduct posted in factory.

Sources: on-site observation; worker and management interviews

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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:** No confidential noncompliance reporting mechanism which allowed factory workers to contact C.R. Gibson.

Sources: document review; worker and management interviews

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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:** [Health certificate for 1 out of 3 kitchen workers expired April 25, 2011.](#)

[Source: document review](#)

[Legal reference: Article 34 of China Law on Safe Productions of Food](#)

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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. 1 main evacuation aisle in box-gluing workshop was blocked by products.
2. Factory had not conducted fire evacuation drill since October 30, 2010, which violated the legal requirement that fire drills should be conducted at least once per half year.

Sources: 1) factory tour; 2) fire evacuation drill record review, management interview

Legal references: 1) Article 28 of China Fire Prevention Law; 2) Article 16 of China Fire Prevention Law, Article 40 of Fire Prevention Regulation for Government offices, Organizations and Enterprises

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### Health and Safety: Chemical Management and Training

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

#### Noncompliance

**Explanation:** 1. Chemicals, such as paints and solvents, in printing workshop were not equipped with second containers.

2. Some drinking bottles, without any safety labels, were used as chemical containers in box-gluing workshop.

Source: visual inspection

Legal references: Article 16 of Regulations on Safety Administration of Hazardous Chemicals; Article 12 of Regulations on Safety in Workplaces Where Chemicals Are Used

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### Health and Safety: Drinking Water

H&S.26 Safe and clean drinking water shall be freely available at all times, within reasonable distance of the workplace. Drinking water shall be of a reasonable temperature and the means to drink water (cups, etc.) must be safe and sanitary and available in an appropriate number. (S)

#### Noncompliance

**Explanation:** Some chemicals, such as paints and solvents, were placed beside drinking water in printing workshop.

Source: visual inspection

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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:** Confirmed that time records were incomplete/inaccurate:

1. Handwritten OT statistics kept in box-gluing workshop for 28 workers from March – June 2011, and for 3 workers from July – November 2010 indicated that those workers worked 3.5 – 4.5 hours overtime per day on most weekdays. Time records factory provided showed those workers only had 2 hours OT on weekdays less than 3 times per month.
2. OT statistics indicated 2 workers took personal leave March 1 – 14 and June 1 – 9, 2011, respectively. Facts also confirmed with related workers' interviews. However, the time records factory provided showed these 2 workers worked normally as others in those periods.
3. About 80% of interviewed workers mentioned that they worked OT on weekdays 3 – 4 times per week (more than 12 times per month) from June – August 2011. 20% of workers reported they worked sometimes on Sundays. Time records showed workers had OT on weekdays less than 3 times per month and never worked on Sundays.
4. 3 workers applied personal leave on July 24, 2011 (Sunday), although there was no work hours record for Sunday. Factory management said workers never worked on Sundays.

Sources: time record review from July 2010 – August 4, 2011; production record review; worker and management interviews; 1) time record review, handwritten OT statistics; 2) handwritten OT statistics, worker interviews; 3) worker interviews, time record review; 4) leave record review, management interviews

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