



2011

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Rainbow Sandals
COUNTRY: China
FACTORY CODE: 12400151279J
MONITOR: Openview Service Limited
AUDIT DATE: August 2, 2011
PRODUCTS: Sandals
PROCESSES: Sewing, Polishing, Gluing,
Assembly
NUMBER OF WORKERS: 661

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, however the recommendations have not been agreed or incorporated by the company. The report is posted in its current state and is considered finalized. Updates on the progress of the corrective action will be posted when received by the company.



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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: Based on the information gathered through payroll review, worker and management interview, it was found that the security guards were paid 100% of their regular pay for work on rest day and public holiday, instead of the legal requirement of 200% or 300% of the regular pay. This violates Article 44 of the China Labor Law.

Plan Of Action: Rainbow is recommending that the factory Follow the requirements of Article 44 of the China Labor Law to pay security guard that are currently in violation.

Deadline Date: 12/01/2011

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:



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: Based on worker interviews, it was noted that the majority of interviewed workers knew nothing on the paid annual leave and did not clear about wage calculation method.

Plan Of Action: Rainbow is recommending providing training for all workers regarding wage calculation.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Forced Labor: Worker Ability to Terminate/Freedom of Movement

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

Noncompliance

Explanation: Resignation record from year 2010 showed that some workers' resignation applications were not approved until 2 or 3 months later. The worst case is that a worker submitted the resignation application in September 2010, but it was not approved until May 2011. And some workers interviewed also reported that it was difficult to resign in the factory. This practice violated China Labor Contract Law: workers can terminate the labor contract after given the factory a written notification 30 days in advance. This violates Article 37 of the China Labor Contract Law.

Plan Of Action: Rainbow is recommending to the factory to institute Article 37 of the China Labor Contract Law and to ensure resignations are completed within 30 days.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

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. There was a trade union under the All China Federation of Trade Unions (ACFTU) established on January 1st, 1999 in the factory. All members selected union representatives by voting and union representatives selected chairman. Chairman of the trade union was the production manager of the factory.

Around 50% union representatives were foremen or supervisors and others were general production workers. There was no trade union in the factory. A welfare committee was established. The head of each department in the factory were members of the welfare committee.



Plan Of Action: Rainbow Sandals is recommending to the factory to recognize and respect the right of employees to freedom of association and collective bargaining and to set up a statement allowing and supporting workers for their preferred organization or association. FOA policy is included in our vendor guide and has been provided to post in local language.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

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: It was confirmed by procedures review and management interviews that the disciplinary system did not 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 or 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 was being imposed.

Plan Of Action: Rainbow is recommending to the factory to improve the disciplinary and grievance system to include the ability for workers to appeal and/or question disciplinary actions to a higher managerial position than the manager that imposes disciplinary actions.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:



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: In review of disciplinary actions documented, it was noted that there had no any discipline records for the past 2 years. Management explained that they just gave workers oral warning, so there was no record.

Plan Of Action: Rainbow is recommending that all disciplinary actions are documented, signed by both the supervisor/manager and the worker, and then kept in each worker's file.

Deadline Date: 12/01/2011

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:



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: Based on worker and management interviews as well as on-site observation, it was noted that there was no code of conduct from Rainbow Sandals posted in the factory.

Plan Of Action: Rainbow has previously provided a "Code of Conduct" for posting at the factory Location. Factory will confirm the receiving and posting of Rainbow's Code of Conduct.

Deadline Date: 12/01/2011

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

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: Based on worker and management interviews as well as on-site observation, it was noted that there was no confidential noncompliance reporting mechanism that allowed factory workers to contact Rainbow Sandals.

Plan Of Action: Rainbow is recommending that factory provide a confidential reporting process so that workers can contact Rainbow Sandals directly, and post the contact information in each factory building.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

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: Based on documents review and management interviews, it was noted that: there were 1 office, 1 dormitory and 3 production buildings in the factory. Factory could not provide Building Construction Safety Report for auditors review. This violates Article 61 of the China Construction Law.

Plan Of Action: Rainbow will request a copy of Building Construction Safety Certificates required by Article 61 of the China Construction Laws that apply to all the Factory buildings.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

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: Factory tour noticed that flammable materials were stored at the stairwell of the first floor of production building No.2. This violates Article 28 of the China Fire Prevention Law.

Plan Of Action: Rainbow recommends to the factory to set up a policy and process to inspect building's fire safety procedures as required by Article 28 of the China Fire Prevention Law.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Health and Safety: Personal Protective Equipment

H&S.11 Workers shall be provided with effective and all necessary personal protective equipment (such as gloves, eye protection, hearing protection, respiratory protection, etc.) to prevent unsafe exposure (such as inhalation or contact with solvent vapors, noise, dust, etc.) to health and safety hazards, including medical waste. (S)

Noncompliance

Explanation: Factory tour noticed that 4 gluing workers in assembly workshop were not wearing masks. It violates Article 37 of the Law of the People's Republic of China on Production Safety.

Plan Of Action: Rainbow requests a training program for workers to use PPE properly and to comply with Article 37 of the Law for China's Production Safety. Factory is recommended to make policy about dangerous and hazardous work.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

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

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

Noncompliance

Explanation: Visual inspection found that the MSDS was not available for rubber solvent and diesel in the factory. This violates Article 27 of the Regulations on Safety in Workplaces Where Chemicals Are Used.

Plan Of Action: Rainbow requests factory to make all related documents, including MSDS, available and on file, and to conduct training on chemical Regulations on Safety for related workers, and to comply with Article 27 of the Regulations on Safety in Workplaces.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Health and Safety: Ventilation/Electrical/Facility Installation and Maintenance

H&S.17 All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and in such a manner as to prevent or minimize hazardous conditions to workers in the facility. (S)

Noncompliance

Explanation: Based on visual inspection and management interviews, it was found that many chemicals were used in both outsole and assembly workshops, but the factory did not conduct air quality test in those workplace according to requirement of local law. This violates Article 15 of Regulations on Safety in Workplaces Where Chemicals Are Used.

Plan Of Action: Rainbow requests factory to make all related documents, including MSDS, available and on file, and to conduct training on chemical Regulations on Safety for related workers, and to comply with Article 15 of the Regulations on Safety in Workplaces.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:



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 inspection found that eye protective shield of 4 out of 14 high speed sewing machines were deactivated. This violates Article 6.1.6 of the Code of Design of Manufacturing Equipment Safety and Hygiene.

Plan Of Action: Rainbow requests routine inspections and corrections to all high speed sewing machines missing protective shields, and to comply with Article 6.1.6 of the Code of Design of Manufacturing Equipment Safety.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Health and Safety: Sanitation in Factory Facilities

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

Noncompliance

Explanation: Visual inspection found that a platform was established in the second floor of production building No.2 to store raw material. The platform was about 2 meters high above the ground without guardrail. This violates Article 7.1.2 of Safety of machinery - Permanent means of access to machines and industrial plants - Part 3.

Plan Of Action: Rainbow requests guardrails to be installed around materials that are in violation of Article 7.1.2 of Safety of machinery.

Deadline Date: 01/01/2012

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: Based on the review of the time record and workers interviews, it was found that the majority security guards in the factory only rest one day per month. This violates Article 38 of China Labor Law.

Plan Of Action: Rainbow requests the factory to fully comply with the Code of Conduct and China Labor Law on rest days and working hours. Factory must comply with Article 38 of China Labor Law.

Deadline Date: 12/01/2011

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)

Uncorroborated Evidence of Noncompliance

Explanation: The working hours in the factory could not be confirmed as the reasons listed below:

1) Attendance record from July 2010 to July 2011 was reviewed in the audit. Among them, it was found that those two workers clocked off at exact the same time such as 11:50 for lunch every day in one month and clock off at exact the same time such as 17:33 for supper every day in the month. Based on onsite observation for the time recording process, the possibility for this kind of situation is very low.

2) About 25% interviewed workers mentioned that they took overtime far into 22:00 pm or even later in the evening during the weekdays but the time record provided by the factory showed that workers took overtime latest till 20:30 pm once or twice per month.

Plan Of Action: Rainbow recommends to the factory an installation of a Time Keeping electronic system that will monitor and record all work hours and breaks. The factory should fully comply with the Code of Conduct and China Labor Law so that Time records shall be authentic and accurate.

Deadline Date: 01/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan No
Complete:

Plan
Complete
Date:

Hours of Work: Annual Leave/Wage Payments

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

Noncompliance

Explanation: Based on worker interviews, and review of the sampled leave record, it was noted that 18 workers had not taken the annual leave since 2009. Factory did not make compensation to those workers according to the requirement of local law. And the factory did not have a policy indicating how to compensate workers who did not take their entitled paid annual leaves. This violates Article 3 and 5 of the Regulations on Paid Annual Leave for Employees

Plan Of Action: Rainbow requests the factory to comply with Article 3 and 5 of the Regulations on Paid Annual Leave and to train all management on legal regulations of China Labor Law and to institute annual leave records procedures.

Deadline 12/01/2011
Date:

Supplier
CAP:



Supplier
CAP Date:

Action
Taken:

Plan **No**
Complete:

Plan
Complete
Date:
