



2008

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Patagonia
COUNTRY: China
FACTORY CODE: 090015931G
MONITOR: Level Works Limited
AUDIT DATE: September 25-26, 2008
PRODUCTS: Shoes
PROCESSES: Cutting, Sewing, Lasting,
Inspection and Packing
NUMBER OF WORKERS: 360

Company Comment: Patagonia ended business with this factory in November 2009 because they refused to correct on-going social compliance concerns. The factory was audited by Patagonia in January 2007 and several issues were discovered in the areas of wages, hours, legally mandated insurance, chemical management and health and safety. Patagonia implemented a Corrective Action Plan at this time; however, only some of the more minor issues were remediated. In June 2008, another Patagonia visit to the factory was completed asking for improvement and our CSR staff reviewed options with factory management on how to achieve sustainable compliance. From our discussions and visits with the factory, it became evident no other brands in the factory were asking for these important changes, and since our orders in the factory were small, corrective actions were not a priority. In September 2008, the FLA audited the factory and discovered the same issues found in 2007 audit. In the spirit of continuous improvement, Patagonia took a step further in October 2008 and paid for another in-depth assessment to the consultant TAOS Network. The visit included a presentation of their services and action plan based on their findings. We also offered to pay for the entire continuous improvement program and signed paperwork indicating Patagonia was the billing party. The factory refused to sign contract with Taos and after several urgings from Patagonia, it became clear the factory would not entertain working with a consultant. At that point, we re-examined the relationship and made the decision to exit the facility. Our last order was finished in November 2009. Since there were no other brands in the factory asking for social improvements, the wages and hours concerns persisted after we ended business ties.

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: It was noted that only 78 out of 360 workers had participated in injury insurance, retirement insurance, and unemployment insurance, disability caused by work-related injury or occupational disease insurance and childbearing insurance.

Notes: As per factory management, it was noted that all workers (local and migrant workers from other provinces) could participate in all 5 types of social insurance. In accordance with PRC Labor Law Article 72, employing unit and workers must participate in social insurance and pay social insurance premiums in accordance with the law; and according to Article 73, laborers shall enjoy social insurance benefits under the following circumstances: a) retirement, b) illness or injury, c) disability caused by work-related injury or occupational disease, d) unemployment and e) childbearing. Therefore, according to this national law, all 5 types of social insurance schemes mentioned above should be provided for all employees of a factory.

Plan Of Action: Factory is required to eventually fold all workers into the social security scheme. To begin with, factory shall provide injury insurance for all workers. Then, the factory shall submit a plan for providing the rest of the social security benefits to all workers.

Deadline Date: 08/19/2009

Supplier CAP: We did ask for injury insurance to local labor department, but we could only insure 155 of the uninsured old age workers. For the other 122 workers, we cannot provide injury insurance separately, as due to previous employment in other factories; they have ensured old age insurance. As advised, our old age insurance plan is the same as before. We will gradually try to improve old age insurance percentage.

Supplier CAP Date: 08/19/2009

Action Taken:

Plan
Complete:

Plan
Complete
Date:

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: It was noted that about 50% of workers (mainly from sewing section) paid insufficient hourly wages; the lowest was RMB 2.37 per hour in August 2008. In accordance with PRC Labor Law Article 48 and opinion of Ministry of Labor on several questions concerning implementation of Labor Law (1995) Article 57, employees, including those who are in probationary, training or internship periods, shall not be paid lower than local minimum standard set wage at RMB 620 per month, equivalent to RMB 3.56 per hour.

Plan Of Action: Factory shall provide explanation for why low payment of wages occurred. The factory is required to develop procedure for ensuring workers always receive at least minimum wage. A report and procedure shall be provided to Patagonia for review. Workers, regardless if new or retiring, should be paid at least minimum wage. Factory shall adjust minimum wage level according to local government's requirement. Factory also required to provide back wages to workers who have been receiving less than minimum wage.

Deadline Date: 04/15/2009

Supplier CAP: In August, there were many (around 50) new workers and retired workers; 2.37 RMB was calculated on average for wages. That's why minimum wage per hour was lower. We will try to improve and meet minimum wage per hour of 3.56 RMB.

Supplier CAP Date: 04/15/2009

Action Taken:

Plan
Complete:

Plan
Complete
Date:

Forced Labor: Other - Forced Labor

Other

Noncompliance

Explanation: It was noted that factory did not have a policy on forced labor.

Plan Of Action: Factory shall develop policy for forced labor. Once developed, factory shall communicate policy to workers and assign responsible management person to ensure policy's implementation. Patagonia will be working with third party NGO/consultant to implement a social compliance program with factory. This will begin in July 2009. One goal is to review with factory their internal policies.

Deadline Date: 08/19/2009

Supplier CAP: Factory is small and has not developed internal systems for employee management; it is working on developing a set of policies for workers.

Supplier CAP Date: 08/19/2009

Action Taken:

Plan
Complete:

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; however, the Trade Union Act prevents 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 freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of labor relations mechanisms. The Amended Trade Union Act of October 2001 does stipulate 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. It also grants the trade union an enhanced role in dispute resolution. In December 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.

Notes: There was no trade union in factory. Factory did not have written factory policy or procedure on supporting independent worker representation. There was, however, a grievance system, where workers could appeal their complaints to top management through suggestion boxes or hotlines.

Plan Of Action: Patagonia acknowledges 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. Patagonia is engaged with a number of global organizations, trade unions, non-governmental organizations and multi-stakeholder initiatives to raise awareness and good labor practices. Patagonia suggests that factory creates policy and procedure that ensures workers' right to freely associate according to China's law. A Workers' Committee or Work Management Committee to ensure workers' concerns are being heard should also be established.

Deadline Date: 08/19/2009

**Action
Taken:**

**Plan
Complete:**

**Plan
Complete
Date:**

Freedom of Association: Other - Freedom of Association and Collective Bargaining

Other

Noncompliance

Explanation: It was noted that factory did not have a Freedom of Association policy.

**Plan Of
Action:** Factory shall develop policy for Freedom of Association. Once developed, factory shall communicate policy to workers and have a responsible management person assigned to ensure this policy's implementation. Patagonia will be working with a third-party NGO/consultant to implement a social compliance program with factory. This will begin in July 2009; one goal is to review with factory their internal policies.

**Deadline
Date:** 08/19/2009

**Supplier
CAP:** Factory is small and has not developed internal systems for employee management; it is working on developing a set of policies for workers.

**Supplier CAP
Date:** 08/19/2009

**Action
Taken:**

**Plan
Complete:**

**Plan
Complete
Date:**

Harassment or Abuse: Discipline/Progressive Discipline

H&A.2 Employers shall have a written system of progressive discipline (e.g., a system of maintaining discipline through the application of escalating disciplinary action moving, for instance, from verbal warnings to written warnings to suspension and finally to termination). Any exceptions to this system (e.g., immediate termination for gross misconduct, such as theft or assault) shall also be in writing and clearly communicated to workers. (P)

Noncompliance

Explanation: It was noted that factory did not have policy and procedure for handling discipline.

Plan Of Action: Factory management should define, enhance or create progressive disciplinary policy and procedures that outline levels of discipline for violations. Policy should escalate; a verbal warning for first violation, written warning for second violation and termination of employment for third violation. All actions of discipline shall be recorded and kept in personnel file of worker. Workers shall have the right to contest and have free access to their personnel records.

Deadline Date: 08/19/2009

Supplier CAP:

Supplier CAP Date: 12/17/2008

Action Taken:

Plan Complete:

Plan
Complete
Date:

Harassment or Abuse: Other - Harassment or Abuse

Other

Noncompliance

Explanation: It was noted that factory did not have a harassment and abuse policy.

Plan Of Action: Factory shall develop policy for harassment and abuse. Once developed, factory shall communicate this policy to workers and have a responsible management person assigned to ensure this policy's implementation. Patagonia will be working with a third-party NGO/consultant to implement a social compliance program with factory. This will begin in July 2009; one goal is to review with factory their internal policies.

Deadline Date: 08/19/2009

Supplier CAP: Factory is small and has not developed internal systems for employee management; it is working on developing a set of policies for workers.

Supplier CAP Date: 08/19/2009

Action Taken:

Plan
Complete:

Plan
Complete
Date:



Child Labor: Employment of Young Workers

CL.6 Employers shall comply with all relevant laws that apply to young workers (i.e., those between the minimum working age and the age of 18) including regulations relating to hiring, working conditions, types of work, hours of work, proof of age documentation, and overtime. (P)

Noncompliance

Explanation: It was noted that no such registration had been done for juvenile workers. In accordance with Regulations for Special Protection of Juvenile Employees (Document No. 498) Article 9, employment of juvenile workers should be registered.

Plan Of Action: Factory shall develop policy and procedure for the hiring process regarding registering juvenile workers. In addition, factory shall review existing workforce for juvenile workers and register them in local labor bureau.

Note: Juvenile workers also have restricted working duties and hours; factory shall ensure compliance with this code.

Deadline Date: 08/19/2009

Supplier CAP: Factory has policy not to hire anyone under 18. Factory management recognizes there is a problem in that they are not able to detect forged IDs. Immediately, factory will not hire workers under the age of 18 and will develop a procedure for verification of age.

Supplier CAP Date: 08/19/2009

Action Taken:

Plan Complete:

Plan Complete Date:

Child Labor: Young Worker Identification System

CL.8 Employers shall have a system for identifying workstations and operations that are inappropriate for young workers according to applicable laws. (P)

Noncompliance

Explanation: It was noted that factory did not have a system for identifying workstations and operations that, according to applicable laws, are inappropriate for young workers.

Plan Of Action: Factory shall conduct a risk mapping exercise of all of duties performed at factory. Included in this analysis should be the process for identifying inappropriate workstations for young workers.

Deadline Date: 08/19/2009

Supplier CAP: Each person has their own job according to their abilities. However, according to our factory situation, workers can be working at different parts of factory if a process is busy. Factory will review workstations and identify those which are inappropriate for juvenile workers; although factory has a policy not to hire anyone under the age of 18.

Supplier CAP Date: 08/19/2009

Action Taken:

Plan Complete:

Plan Complete Date:

Child Labor: Other - Child Labor

Other

Noncompliance

Explanation: It was noted that factory did not have a child labor policy.

Plan Of Action: Factory shall develop policy for preventing child labor. Once developed, factory shall communicate this policy to workers and have a responsible management person assigned ensuring this policy's implementation. Patagonia will be working with a third party NGO/consultant to implement a social compliance program with the factory. This will begin in July 2009; one goal is to review with factory their internal policies.

Deadline Date: 08/19/2009

Supplier CAP: Factory is small and has not developed internal systems for employee management; it is working on developing a set of policies for workers.

Supplier CAP Date: 08/19/2009

Action Taken:

Plan Complete:

Plan Complete Date:

Non-Discrimination: Other - Non-Discrimination

Other

Noncompliance

Explanation: It was noted that factory did not have a non-discrimination policy.

Plan Of Action: Factory is required to establish non-discrimination policy. Patagonia will be working with a third party NGO/consultant to implement a social compliance program with factory. This program will begin in July 2009; one goal is to review with factory their internal policies.

Deadline Date: 08/19/2009

Supplier CAP: Factory is small and has not developed internal systems for employee management; it is working on developing a set of policies for workers.

Supplier CAP Date: 08/19/2009

Action Taken:

Plan Complete:

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: It was noted that no fire service inspection certificate was provided by factory. In accordance with PRC Fire Service Law Article 10, fire services department shall conduct a building inspection once construction is completed. The building shall not be used if inspection has not been conducted or if building was inspected but did not pass.

Plan Of Action: Factory shall schedule a fire inspection immediately and obtain the needed certificate or make the needed corrections to obtain the certificate.

Deadline Date: 04/15/2009

Supplier CAP: Early this year, we received a fire inspection from the local fire department and passed inspection. However, there were still points to be improved on and the certificate is under checking.

Supplier CAP Date: 04/15/2009

Action Taken:

Plan Complete:

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: 1. It was noted passage widths for evacuation and staircases were only about 0.8m. In accordance with PRC Fire Safety of Building Design Regulation (GBJ16-87) Article 5.3.13, width of passages for evacuation and staircases should be at least 1.1m.

2. It was noted that not all workers in factory had participated in fire drills.

Plan Of Action: 1. Factory shall ensure all buildings built to code and assess ability of changing width of fire exits to meet fire code. Factory shall then report the plan on this back to Patagonia.

2. Factory shall develop plan for continuous training on health and safety within factory, specifically for this noncompliance. Factory shall conduct fire drills at least once a year for all workers and notify new employees of emergency evacuation procedures.

Deadline Date: 04/15/2009

Supplier CAP: 1. Factory does not have staircase in production area and requests further clarification.
2. We are scheduling a fire drill for the middle of next month. We will send Patagonia the related pictures and signed report after the drill.

Supplier CAP Date: 04/15/2009

Action Taken:

Plan Complete:

Plan Complete Date:

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: It was noted that 2 fire extinguishers in cutting section and 1 in material warehouse were blocked. In accordance with Code for Design of Extinguisher Distribution in Buildings (GB 50140-2005) Article 5.1.1, fire extinguishers shall be installed in distinct and easily accessed locations, and shall not hinder safety evacuations.

Plan Of Action: Factory shall have a continuous review process for workplace health and safety. Ideally, this would be a committee of management and workers who work together to ensure workplace safety. Specifically for this noncompliance, all fire extinguishers must be clear and accessible in case of an emergency.

Deadline Date: 12/17/2008

Supplier CAP: Will take a right measurement immediately on the fire extinguishers.

Supplier CAP Date: 12/17/2008

Action Taken:

Plan Complete:

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: It was noted that factory did not provide facemasks for gluing workers. In accordance with PRC Factory Safety and Sanitary Regulations Article 75, factory shall provide appropriate face masks, goggles and gas masks to workers exposed to hazardous gas, steam or airborne particles in workplace.

Plan Of Action: Due to the nature of gluing production that occurs at factory, factory management must provide workers correct protective masks. Factory should conduct an environmental assessment of the production area to determine risks to workers and what personal protective equipment (PPE) is required. Then workers should be trained on correct use and reasons why PPE is required. There shall also be signage in production area to remind workers that PPE is needed. Finally, factory shall provide PPE to workers, at no cost to worker.

Deadline Date: 11/30/2008

Supplier CAP: We have already provided masks to all workers (will educate them to wear masks at all times).

Supplier CAP Date: 11/30/2008

Action Taken: We have already provided masks to all workers (will educate them to wear masks at all times).

Plan Complete:

Plan Complete Date: 02/11/2009

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: It was noted that chemicals were used in factory with no Material Safety Data Sheet (MSDS). In accordance with Regulation For Chemical Usage Safety in Work Place Clause 27, staff and workers are entitled to receive :

1. The date, information, characteristics, specifications, hazardous ingredients and safety precaution marks of chemicals used in working premises. Instructions on safety techniques and further notifications of precautions and possibilities;
2. Information concerning probability of harm which could occur; health and safety information regarding usage of dangerous chemicals at work should be also covered;
3. Training on safety techniques regarding prevention, control, danger-avoiding methods and handling emergency cases and/or measures;
4. Labor protection articles in conformity to state stipulations.

Plan Of Action: Factory management shall do an assessment of all chemicals used in factory and then obtain MSDS information for each of them. Factory management will then train workers on correct storage and handling of chemicals, as well as what to do in case of contact or emergency. Signage shall also be printed and posted in locations easily referenced by workers, including posting of MSDS sheets in Chinese near where chemicals are stored.

Deadline Date: 11/30/2008

Supplier CAP: Already taken a right measurement.

Supplier CAP Date: 11/30/2008

Action Taken:

Plan Complete:

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: It was noted that there were no safety eye shields for 3 computer sewing machines and no safety belt guard for 8 sewing machines. In accordance with Safety Manufacturing Law Article 29; the design, manufacture, installation, application, inspection, maintenance and/or repair of safety facilities shall comply with national or industrial standards. Manufacturing units shall be well maintained; safety facilities should be inspected regularly to ensure they are in good working condition. Maintenance and inspection records should be properly maintained and assigned to relevant staff.

Plan Of Action: Factory shall have a continuous review process for workplace health and safety. Ideally, this would be a committee of management and workers who work together to ensure workplace safety. Specifically for this noncompliance, all machines shall have correct protective guards in place.

Deadline Date: 11/30/2008

Supplier CAP: Already taken appropriate action.

Supplier CAP Date: 11/30/2008

Action Taken:

Plan
Complete:

**Plan
Complete
Date:**

Health and Safety: Sanitation in Dormitories

H&S.28 All dormitories shall be kept secure, clean and have safety provisions (such as fire extinguishers, first aid kits, unobstructed emergency exits, emergency lighting etc.). Emergency evacuation drills shall also be conducted at least annually. (S)

Noncompliance

Explanation: It was noted that no emergency light installed in dormitory. In accordance with PRC Fire Safety of Building Design Regulation (GBJ16-87) Article 10.2.6; all units shall provide emergency lights for evacuation passages, exits and stairwells. Furthermore, according to Fire Safety of Building Design Regulation (GBJ16-87) Article 10.2.9, emergency lights shall be installed on walls or ceilings.

**Plan Of
Action:** Factory shall have a continuous review process for workplace health and safety. Ideally, this would be a committee of management and workers who work together to ensure workplace safety. Specifically for this noncompliance, factory shall install emergency lighting in dormitory.

**Deadline
Date:** 11/30/2008

**Supplier
CAP:** Already taken appropriate action.

**Supplier CAP
Date:** 11/30/2008

**Action
Taken:**

**Plan
Complete:**

**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 all workers had worked 13 consecutive days, from January 7-19, 2008, without a rest day; all workers had also worked 12 consecutive days, February 18-19, 2008, without a rest day.

**Plan Of
Action:** Factory shall develop policy that ensures workers receive at least 1 day off in 7. Factory shall document how it will ensure this policy and who is responsible. It would be helpful for management to determine why workers worked 13 consecutive days without a rest day to ensure those factors do not cause same problem in the future. Patagonia requires all manufacturers of Patagonia products ensure workers receive 1 rest day every 7 days.

**Deadline
Date:** 08/19/2009

**Supplier
CAP:** During that period, there was the Lunar New Year holiday; factory workers did substitute work. This holiday was why they took a rest for 8 days (i.e., 4 days were substitute work.) Anyway, factory will pay more attention to it.

**Supplier CAP
Date:** 08/19/2009

**Action
Taken:**

**Plan
Complete:**

**Plan
Complete
Date:**

Hours of Work: Overtime/Calculation Over Period Longer Than One Week

HOW.10. Employers are allowed to calculate normal hours of work as an average over a period of longer than one week where local laws, regulations and procedures provide for such a possibility but only when all formal and procedural requirements attached to such calculation (for instance, obtaining official permission from the relevant authorities or limits to the period during which such calculations can be made) are met. The basis for such calculation shall, however, remain at all times the lesser of 48 hours per week or legal limits on hours of work in the country of manufacture or, where such legal limits do not exist, the regular work week in such country. (S)

Noncompliance

Explanation: It was noted that about 70% of workers (mainly from sewing and packing sections) worked more than 60 hours a week over past 12 months, from September 2007 to August 2008. Week of January 21, 2008, total weekly working hours were up to 74.5.

Plan Of Action: Factory shall review production to ensure work hours kept within 60 hours a week limit. This review will require in-depth look at production scheduling and processes to bring work hours in compliance with Patagonia's COC; China's OT limit is 36 overtime hours a month. Patagonia suggests factory be in touch with social management consultant to look at both meeting code compliance and increasing productivity within work environment. Patagonia will be working with a third party NGO/consultant to implement a social compliance program with factory. This program will begin in July 2009. Another goal is to review production process and hours of work.

**Deadline
Date:** 08/19/2009

**Supplier
CAP:** We will gradually complement workers to reduce overtime work.

**Supplier CAP
Date:** 08/19/2009



**Action
Taken:**

**Plan
Complete:**

**Plan
Complete
Date:**
