



2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Yee Tung Garment Co., Ltd.

COUNTRY: China

FACTORY CODE: 64001510641

MONITOR: Openview Service Limited

AUDIT DATE: June 7-8, 2010

PRODUCTS: Textile Garments

PROCESSES: Cutting, Sewing,
Embroidering, Washing, Ironing,
Trimming, Packaging

NUMBER OF WORKERS: 524

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: Training and Probation Wage

WBOT.3 Where probation or training wages are legally allowed, no worker shall be paid a probation or training wage for more than three months cumulatively. (S)

Noncompliance

Explanation: Employment records review, and worker and management interviews indicated that the probation period for most workers was 6 months for 3-year labor contracts.

Plan Of Action: At this moment, factory will keep its current practice as this practice is in line with China's Labor Laws. Probation period may be shortened to 2 months if the length of the contract is less than 3 years. However, since the factory wants its workers to have a stable job, the factory has standardized the contract period to 3 years with a 6-month probationary period. Moreover, workers who are not qualified after the first 3 months may still have another chance to show their improvement in the rest of the probation period, rather than being terminated. Of course, factory must guarantee that all its workers are entitled to all legal rights and benefits, such as the minimum wage and social insurance, whether they are under probation or not. To further improve factory practice, the factory will review its internal policy from time to time to ensure that it fits with market demand. In addition, the factory will ensure that promotion is based on workers' ability and work performance.

Deadline Date: 07/30/2010

Action Taken: Factory has ensured that workers under probation are paid at least the legal minimum wage and provided with legal benefits as per China's Labor Laws.

Plan Complete: Yes

Plan Complete Date: 07/30/2010

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: Worker interviews revealed that more than 80% of workers were not aware of overtime wages and benefits.

The above fact violates Article 8 of the China Labor Contract Law.

Plan Of Action: Factory will provide education and training to all employees with regard to this policy and structure. This training will cover all relevant wages and benefits. The factory will be sure to communicate with employees in their local language so that employees will be able to fully understand the content of these policies.

Deadline Date: 07/30/2010

Supplier CAP: Factory will post all these policies and structures, such as calculation of overtime wages & benefits, on the notice board so every employee can read this easily at any time. Training in local language will be provided to each employee regarding this policy. The factory will continue training the employees so that if there are any updates to the policy, employee will be aware of them. Training will be completed for all factory workers in July 30, 2010.

Supplier CAP Date: 07/30/2010

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 October 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 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.

Plan Of Action: Training will be provided to refresh workers' knowledge of the factory's freedom of association policies. The factory will explain to the workers that they have a right to join any union, however, they should note that unions are contrary to the principles of FOA. Factory will clearly explain to all workers the background of different unions in China to provide them with more information. The factory has set up the Health & Safety committee to listen to worker's opinions and formulate internal H&S policy. All worker representatives in this committee are elected by the workers and they are welcome to provide additional opinions and suggestions on how to improve the working environment. The need for the Health & Safety Program developed from the Buyers' Code of Conduct as well as the priority of the Management to promote the safety and well being of all its employees. Additionally, the Health & Safety Committee was formed to ensure that the objectives of an environmentally friendly, safe and healthy workplace are met. Furthermore, the Health & Safety Committee, in partnership with the HR and Admin Departments as well as other committees in the company, aims to continuously improve the safety and health of the factory and the employees working therein, and to ensure that the environment is protected. Quarterly meetings are conducted to discuss the current safety and health issues. All workers are given the right to establish and join organizations of their own choosing without previous authorization. Training will be provided to all workers about the function of union in factories so that all workers will have a basic knowledge of those topics.

Deadline Date: 08/30/2010

Supplier CAP: Training will be provided to all workers about the role and function of the union in the factory. All employees will be fully informed and aware of unions' function after having undergone such training.

Supplier CAP Date: 08/30/2010

Action Taken:

Plan Complete: No

**Plan
Complete
Date:**

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: It was observed during factory walkthrough that there were gender and age limitations (e.g. female, 18 to 25, 20 to 35 years old) in recruitment ads posted at the entrance of factory gate.

This violates Article 12 of China Labor Law and Article 20 of Provisions on Employment Services and Employment Management.

**Plan Of
Action:** We have ensured that hiring is based on employees' ability and qualifications; the factory is not allowed to discriminate during hiring. Factory has re-educated the personnel staff regarding the content of discrimination. Moreover, Equal Employment Opportunity (EEO) policies were established in the factory to ensure that all employers will treat all employees fairly irrespective of their gender, race, religion, age, disability, nationality, political opinion, sexual orientation, ethnic origin, maternity or marital status or any other prohibited grounds of discrimination.

**Deadline
Date:** 07/01/2010

**Action
Taken:** Completed Factory policy has been immediately corrected, and training has been provided to personnel staff to ensure that recruitment practices are in line with anti-discrimination policies.

Plan Yes
Complete:

Plan 07/01/2010
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: On-site examination revealed that although the Code of Conduct of [Factory name] was posted in the production workshop, workers were not orally informed of the code provisions at the time of induction or on an ongoing basis.

Plan Of Action: Factory will provide training to all workers about the code provision in the orientation and on an ongoing basis. The factory will ensure that workers understand the content of its CoC and that they can contact the factory's headquarters freely if they have any questions or problems. The telephone number has been put on [Factory name] CoC as well as workers' notification.

Deadline 07/31/2010
Date:

Supplier The factory will provide CoC training to all workers and ensure they understand the
CAP: content; training will be ongoing to update them of any changes.

Supplier 07/31/2010
CAP Date:

**Action
Taken:**

Plan No
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: 1) On-site observation revealed that there was no Structure Safety Certificate for all buildings in the facility.

This violates Article 61 of the China Construction Law.

2) Based on records review and interviews with workers and management, it was noted that the factory had not obtained a waste discharge permit.

This violates the Article 20 of China Law on Prevention and Control of Water Pollution (2008).

Plan Of Action: 1) Due to changes of factory management in the past 10 years, the certificate copy was unable to be located now. The factory needs to communicate with the relevant government department for re-issue of the documentation, but until now was unable to obtain the certificate. Factory will keep checking with the government for updates in obtaining the Structure Safety Certificate.

2) Factory has tried to negotiate with the Local Environmental Authority several times, however, the answer they received was “since our factory is graded as Discharge Level 2, Discharge Permit is not required.” Apart from this, the factory strictly follows the local environmental requirements and the local government officials conduct unannounced sample testing on a regular basis to ensure that the factory complies with all requirements. At this stage, such a request is beyond the factory's authority, and it cannot obtain the waste discharge permit.

Deadline Date:

Action Taken: 1) Factory has communicated with relevant departments, but is still unable to obtain the certificate. It will continue to communicate with the relevant department to try to obtain the Structure Safety Certificate.

2) Factory has tried to negotiate with the local environmental authority, however the local environmental authority refuses to provided such certificate for the reason that it is “not required” in the area of Discharge Level 2.

Plan Complete: No

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: On-site examination showed that waste bins blocked 2 fire extinguishers in the canteen.

This violates Article 28 of China Fire Prevention Law.

Plan Of Action: Factory will ensure that all fire extinguishers in all departments are free from obstacles. The factory has cleared the waste bins and will keep the fire extinguishers unblocked at all times. The factory will emphasize the importance of a healthy and safe working environment to all workers again. In the future, the factory will ensure that all fire extinguishers are unblocked.

Deadline Date: 07/01/2010

Action Taken: Completed: The factory immediately removed the obstacles. The factory has asked the security guard to patrol more in all sections to ensure all fire extinguishers are unblocked. The factory has also assigned a compliance officer to conduct random checks and to alert each department if blockages are found.

Plan Complete: Yes

Plan Complete Date: 07/01/2010

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: Visual inspection showed that not all workers in the washing department wore waterproof boots.

This violates Article 54 of China Labor Law.

Plan Of Action: Factory will reinforce supervision of the washing workers to ensure that they wear PPE. The factory has provided PPE to all workers and will provide more training to educate them on the importance of wearing PPE. Factory will also do random checks every day to ensure that workers follow the rules properly.

Deadline Date: 07/01/2010

Action Taken: Completed: Factory has immediately corrected this issue and will continue supervising the washing workers to ensure that they wear PPE. PPE and training have been provided. In addition, factory compliance officer conducts random checks every day and internal auditing monthly to ensure all the workers wear PPE during the working hours.

Plan Complete: Yes

Plan Complete Date: 07/01/2010

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, it was found that the door of the electrical service panel on the roof of the production building was opened, and there was no safe cover for the electrical switch in the same place.

This violates Article 4.4 of the General Guide for Electrical Safety (GB/T13869-2008).

Plan Of Action: Factory provided the safe cover and closed the door of the electrical service panel immediately after the audit. Factory will ensure all electrical switches will be covered and has assigned the maintenance department to check the entire electrical service panel in factory; maintenance department will fix it immediately if they find missing/damaged covers. Factory will also ensure all doors on the panel will be closed after use.

Deadline Date: 07/01/2010

Action Taken: Completed: The factory had closed the door and installed inner cover on electrical control panels.

Plan Complete: Yes

Plan Complete Date: 07/01/2010

Health and Safety: Machinery Maintenance and Worker Training

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

Noncompliance

Explanation: On-site observation revealed that:

- 1) Protective Plexiglas shields for 60% of sewing machines were removed and the shields of 10% of remaining sewing machines were not in the working position.
- 2) The safety guards of two of the buttoning machines were not operational in sewing department.
- 3) Safety guards of 4 out of 7 cutting machines were removed in the cutting department.
- 4) Safety warnings on the embroidering machines were all in English, not in the local language.

The above practices violate Article 6.1.6 of General Rules of Design on Health and Safety of Production Facility (GB5083-1999).

**Plan Of
Action:**

- 1) Factory had installed protective Plexiglas shields on all sewing machines and reinforced training for workers to ensure safety. Inspection will be done on daily basis to ensure there are no missing shields.
- 2) Factory installed the safeguards on the buttoning machines, and will inspect the machines every day to ensure they are in working order and will fix non-operational guards immediately if there are any problems.
- 3) Factory has installed the safeguards on all cutting machines and reinforced training for workers to ensure safety. The maintenance department will continue checking safeguards daily and will reinstall the guards if there are any missing or broken.
- 4) Factory translated the safety warning into the local language immediately after the audit. The factory also posted warnings on the embroidering machines so that all employees are properly alerted.

Deadline 07/01/2010
Date:

Action 1) Completed: Protective Plexiglas shields on all sewing machines have been installed and factory will keep monitoring to ensure that the shields are in working order.
Taken: 2) Completed: Safeguards on buttoning machines have been installed and factory will continue monitoring.
3) Completed: Safeguards on all cutting machines have been installed and factory will continue monitoring.
4) Completed: Safety warning has been translated into Chinese and posted on the embroidering machines, factory will pay attention to all English documents (if any) and make sure they all translated into local language.

Plan No
Complete:

Plan 07/01/2010
Complete
Date:

Health and Safety: Medical Facilities

H&S.21 Medical facilities shall be established and maintained in factories as required by applicable laws. Medical staff shall be fully licensed and recognized under applicable local rules and regulations. An appropriate number of medical staff shall be on duty during all working hours, including any type of overtime, as required under local law. An appropriate stock of medical supplies shall be maintained at all times. Medicines of which the expiration date has passed must be replaced immediately and disposed of in a safe manner. (P)

Noncompliance

Explanation: Based on observations made during document review and worker and management interviews, it was noted that the factory did not provide occupational safety and health examinations for workers who were involved in the use of hazardous chemicals.



Plan Of Action: Factory will arrange occupational safety and health examination for workers who use hazardous chemicals and the examination result will be maintained on-site for review. Factory will ensure all workers who use hazardous chemical will be provided with this examination.

Deadline Date: 08/30/2011

Action Taken: We have contacted the local hospital to arrange occupational safety and health examinations. They believe it would be done on or before August 30, 2011.

Plan Complete: No

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 there was only a wound-cleaning agent in the first aid kit in dormitory, and furthermore, it had expired.

Plan Of Action: Factory will keep medical supplies in the first aid kits fully stocked, including medical supplies and tools to ensure workers can use them. Factory has assigned compliance officer to check and keep the first aid kits well stocked with sufficient contents and non-expired items. The factory reminds the first aid respondents that if they find missing items in first aid kits, they need to be resupplied immediately.

Deadline Date: 07/01/2010

Action Taken: Completed: Factory has kept medical supplies in the first aid kits sufficiently stocked, including medical supplies and tools that workers can use. The factory has also double-checked all items to ensure they have not expired.

Plan Complete: Yes

Plan Complete Date: 07/01/2010

Health and Safety: Other - Health and Safety

Noncompliance

Explanation: On-site examination and records review found that the factory did not conduct air quality testing for washing workshops involved in the use of chemicals.

This violates Article 15 of Regulations on Safety in Workplaces Where Chemicals Are Used.

Plan Of Action: Actually, factory had the air quality testing washing workshops were done in 2007. On the date of audit the factory's compliance staff was on leave, therefore the helper could not locate the testing certificate for the auditor. Factory will ensure all certificates are placed systemically and ensure the relevant person can locate them if necessary.

Deadline Date: 07/01/2010

Action Taken: Completed: Factory had the air quality testing washing workshops done in 2007.

Plan Complete: Yes

Plan Complete Date: 07/01/2010

Hours of Work: A. 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: Based on the review of time records from June 2009 to May 2010 and management and worker interviews, it was noted that most of the workers worked fewer than 60 hours per week, but this was not guaranteed during peak season. For example, most of the sewing workers worked 68 hours in the week from May 24th to May 30th, 2010, exceeding the legal overtime limit of 36 hrs/month.

Plan Of Action: Factory will further improve production planning in coordination with [Factory central office] on the delivery accessories to meet deliveries on a timely manner. In addition, factory will arrange more training for workers to improve the workers' efficiency in order to improve the overall productivity of the factory. The factory hopes to hire more workers to ease factory's OT burden and tight shipment pressure. At this stage the factory will continue limiting the weekly hours to 60.

Deadline Date: 10/31/2010

Action Taken: Factory will control overtime to an acceptable level within the confines of labor law and the buyer CoC, which states that working hours shall not exceed 60 hours/week, and at most 36 hours of overtime/month during a long run.

Plan No
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: Based on review of time records from June 2009 to May 2010, and confirmed through worker and management interviews, most workers were allocated at least 1 day off per 7, but it was not guaranteed during peak season. For example, most of the sewing workers worked from May 24th, 2010 to June 5th, 2010: 13 days consecutively without 1 day off.

The above practice violated Article 41 of China Labor Law.

Plan Of Action: Workers are entitled to at least 1 day off in every 7-day period. Factory will further improve production planning in coordination with [Factory central office] on the delivery accessories to meet delivery deadlines in a timely manner. In addition, the factory will arrange more training for workers in order to improve the workers' efficiency; the factory hopes the overall productivity will be generally increased. Further, the factory will hire more workers to ease factory's OT burden and tight shipment pressure. Moreover, factory will keep on controlling overtime to keep it at an acceptable level, within the confines of labor law and buyer's CoC. We shall provide all workers at least 1 day off in every 7-day period.

Deadline 10/31/2010
Date:



Action Taken: Training has been provided to all workers about the rest day and factory will ensure that all workers are entitled to at least 1 day off in every 7-day period.

Plan Complete: No

Plan Complete Date:
