



2009

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** Fossil, Inc.  
**COUNTRY:** China  
**FACTORY CODE:** 360215123H  
**MONITOR:** Level Works  
**AUDIT DATE:** August 25-26, 2009  
**PRODUCTS:** Electronic Watches  
**PROCESSES:** Injection Molding, Silk  
Printing, Paint Spraying, Assembly,  
Inspection, Packing  
**NUMBER OF WORKERS:** 520



## CONTENTS:

Freedom of Association: Right to Freely Associate _____	3
Code Awareness: _____	4
Code Awareness: _____	5
Health and Safety: Evacuation Requirements and Procedure _____	6
Health and Safety: Material Safety Data Sheets/Worker Access and Awareness _____	7
Hours of Work: General Compliance Hours of Work _____	8

## 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)

### Uncorroborated Evidence of 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.

**Plan Of Action:** A trade union exists in the factory, but it is under the ACFTU. It is recommended that factory management encourage the organization of worker committees, comprised of elected members to raise issues of concern to management.

**Deadline Date:** 11/30/2009

**Supplier CAP:** Union representatives are elected by the workers and are made up of workers from various areas of the factory. The trade union meets with management to resolve labor issues in the factory. In addition, factory employees are encouraged to raise issues of concern through the suggestion box, by phone or directly with management. HR collects and investigates the complaints.

**Supplier CAP Date:** 11/30/2009

**Action  
Taken:**

**Plan Complete:** No

**Plan Complete  
Date:**

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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 Fossil Code of Conduct was posted in the factory.

**Plan Of Action:** It is recommended that the factory post the Fossil Code of Conduct in an area visible to the workers.

**Deadline Date:** 09/03/2009

**Supplier CAP:** Factory management will post a copy of Fossil's Code of Conduct in an area accessible to workers.

**Supplier CAP Date:** 09/03/2009

**Action Taken:** Fossil's Code of Conduct has been posted and the factory has provided a photo of the posted Code of Conduct. The factory has posted Fossil's Code of Conduct in Chinese and provided a photo.

**Plan Complete:** Yes

Plan Complete Date: 05/04/2010

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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:** There was no confidential noncompliance reporting mechanism which allows factory workers to contact the company directly.

**Plan Of Action:** The factory maintains a written suggestion box. Workers can communicate their concerns through this means. Fossil will develop a direct communication means between our National Collegiate Athletic Association (NCAA) factories and Fossil for factory employees through a third party number/email that employees can utilize anonymously if they so choose.

**Deadline Date:** 12/31/2010

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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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:** It was noted that some emergency evacuation passages were blocked by goods in packing section and in warehouses (1/F). Legal Reference: PRC Fire Service Law article 14(6).

**Plan Of Action:** It is recommended that evacuation passages are cleared and remain clear to allow workers access.

**Deadline Date:** 09/03/2009

**Supplier CAP:** Factory management will clear the evacuation passages. In addition, the factory will create internal policies/procedures on safety practices and a document outlining the responsibilities of management to ensure the practices are followed. The policy will outline procedures for regular inspection of fire equipment and evacuation passages.

**Supplier CAP Date:** 09/03/2009

**Action Taken:** Factory management has moved the goods to appropriate storage areas to allow employees access to evacuation passages. The factory has provided photos of the cleared evacuation passages and proper storage of goods. In addition, the factory has provided internal policies/procedures regarding safety practices as well as management responsibilities outlining a designated person to ensure adherence to the policies. Per the provided fire safety policy, the Administration Manager is responsible for organizing regular inspections of evacuation passages, fire extinguishers and other fire equipment. Departmental managers will be directly responsible for conducting the inspections.

**Plan Complete:** Yes

**Plan Complete Date:** 05/04/2010

**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 no MSDS was available onsite for chemicals (lubricating oil) used on 1/F of production building. Legal Reference: Regulation For Chemical Usage Safety in Work Place clause 27.

**Plan Of Action:** It is recommended that the factory post MSDS at the site where lubricating oil is used.

**Deadline Date:** 09/03/2009

**Supplier CAP:** MSDS for lubricating oil will be posted in the 1/F of the production building. In addition, the factory will create internal policies/procedures on safety practices and a document outlining the responsibilities of management to ensure the practices are followed. The policy will outline procedures for ensuring correct chemical handling and that MSDS will be provided to workers.

**Supplier CAP Date:** 09/03/2009

**Action Taken:** Factory management has posted MSDS in the 1/F of the production building where lubricating oil is used. The factory has provided a photo of the posted MSDS. In addition, the factory has provided internal policies/procedures regarding safety practices as well as management responsibilities outlining a designated person to ensure adherence to the policies. Per the provided emergency response procedure, the Administration Manager is responsible for identification and ensuring correct handling of hazardous chemicals. Departmental managers are directly responsible for ensuring that workers adhere to this policy.

**Plan Complete:** Yes

**Plan Complete Date:** 05/04/2010

**Hours of Work: General Compliance Hours of Work**

HOW.1 Employers shall comply with all local laws, regulations and procedures concerning hours of work, public holidays and leave. (S)

**Noncompliance**

**Explanation:** It was noted that around 30% of workers from assembly, packing and inspection sections worked overtime maximum of 4 hours per day and 55 hours per month in the months from August 2008 to July 2009. Legal Reference: PRC Labor Law article 41.

**Plan Of Action:** It was recommended by Fossil CSR that the factory keep overtime to the legal maximum of 36 hours per month. As there are significant peak and non-peak production times in the factory, it was recommended that the factory apply for a comprehensive overtime waiver from the local labor bureau to allow overtime to be calculated as an average.

**Deadline Date:** 07/29/2009

**Supplier CAP:** Factory management has obtained a valid comprehensive overtime waiver from the local labor bureau valid from August 20, 2009 to August 20, 2010. This waiver allows the factory to calculate overtime as an average during this time period, not to exceed an average of 36 hours per month and a maximum of 3 hours of overtime per day. Factory management has supplied a copy of the overtime waiver. Increases in order quantities during peak season and regularly late delivery of materials from suppliers have caused the need to work excessive overtime in order to meet delivery deadlines. The factory will hire additional staff during peak season and will work with material suppliers to deliver materials earlier in order to ensure that production is arranged in a manner that will not require excessive overtime to meet delivery deadlines.

**Supplier CAP Date:** 05/04/2009

**Action Taken:**

**Plan Complete:** No





**Plan  
Complete  
Date:**

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