



2008

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: New Wave Group
COUNTRY: Vietnam
FACTORY CODE: 770084990G
MONITOR: Global Standards
AUDIT DATE: December 17, 2008
PRODUCTS: Footwear
PROCESSES: Cutting, Stitching, Stock Fitting, Assembly, Inspection, Packing
NUMBER OF WORKERS: 700

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: Accurate Length of Service Calculation

WBOT.18 All workers shall be credited with all time worked for an employer for purposes of calculating length of service to determine the benefits to which workers are entitled. (S)

Noncompliance

Explanation: Calculation of severance allowance is not in accordance with legal requirements. Working time used to calculate severance allowance is not inclusive of seasonal and probationary periods.

**Plan Of
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Wages, Benefits and Overtime Compensation: General Compliance Wages, Benefits and Overtime Compensation

WBOT.1 Employers shall comply with all local laws, regulations and procedures concerning the payment of wages and benefits, including overtime compensation. In any case where laws and the FLA Code are contradictory, the standard that provides the greatest protection for workers shall apply. Where provisions are lacking, employers shall take measures to reasonably accommodate matters concerning the payments of wages and benefits, including overtime compensation. (S)

Noncompliance

Explanation: [Factory has not registered wage scale system with local authorities.](#)

[Legal Reference: Article 57 of Labor Code](#)

**Plan Of
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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: [Work stoppage is paid at 70% of contract salary, leading to, in some cases, lower than legal minimum wage \(800,000 VND\).](#)

[Legal Reference: Article 62 of Labor Code](#)

**Plan Of
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Wages, Benefits and Overtime Compensation: Accurate Calculation and Recording of Wage Compensation

WBOT.17 All payments to workers, including hourly wages, piecework, benefits, bonuses, and other incentives shall be calculated and recorded accurately. (S)

Noncompliance

Explanation: 1. Pregnant and nursing workers allowed to work OT and paid in short for OT hours.

Legal Reference: Article 115 of Labor Code

2. Factory does not count and pay as OT for dinner break (30 minutes) when workers worked more than 10 hours a day.

Legal Reference: Decree 109/2003/ND-CP

**Plan Of
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Wages, Benefits and Overtime Compensation: Pay Statement

WBOT.26 Employers shall provide workers a pay statement each pay period, which shall show earned wages, wage calculations, regular and overtime pay, bonuses, all deductions and final total wage. (P)

Noncompliance

Explanation: [Factory does not provide pay slips to workers.](#)

**Plan Of
Action:**

**Deadline
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**Plan
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Date:**

Wages, Benefits and Overtime Compensation: Other - Wages, Benefits and Overtime Compensation

Other

Noncompliance

Explanation: 1. Factory pays social insurance after 3 months, against legal requirements.

Legal Reference: Law on Social Insurance

2. Factory does not sign contract annex in case of increasing salary.

Legal Reference: Circular 21/2003/TT-BLDTBXH

**Plan Of
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Forced Labor: Employment Records

F.9 Employers shall maintain sufficient hiring and employment records to demonstrate and verify compliance with this Code provision. (P)

Noncompliance

Explanation: [Factory is employing 240/600 seasonal workers without personnel documents and labor contracts. Only 10/17 requested cases had personnel files.](#)

**Plan Of
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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:** Vietnam has not ratified ILO Conventions 87 or 98. Under Vietnamese law, all unions are required to affiliate with the single trade union, the Vietnam General Confederation of Labor (VGCL), which is affiliated with the Communist Party. With respect to such union monopolies, the ILO Committee on Freedom of Association has stated that the rights of workers to establish organizations of their own choosing implies . . . the effective possibility of forming . . . [trade unions] independent both of those which exist already and of any political party. Vietnam's legal framework is therefore not compatible with the ILO Principles on Freedom of Association and, as such, all factories in Vietnam fail to comply with the FLA Code standard on Freedom of Association.

**Plan Of
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Freedom of Association: Grievance Procedure

FOA.26 Employer shall have in place written grievance procedures that allow first an attempt to settle grievances directly between the worker and the immediate supervisor but that, where this is inappropriate or has failed, it is possible for the worker to have the grievance considered at one or more steps, depending on the nature of the grievance and the structure and size of the enterprise. Employers shall ensure that the grievance procedures and applicable rules are known to workers. (P)

Noncompliance

Explanation: [Factory lacks communication system between management and workers. Only 1 suggestion box is installed in the canteen, without policy and instructions.](#)

**Plan Of
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Freedom of Association: Other - Freedom of Association and Collective Bargaining

Other

Noncompliance

Explanation: Collective Bargaining Agreement (CBA) is not posted and communicated to workers. Workers are not aware of Union and CBA.

**Plan Of
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Harassment or Abuse: General Compliance Harassment or Abuse

H&A.1 Employers shall comply with all local laws, regulations and procedures concerning discipline, violence, harassment and abuse. (S)

Noncompliance

Explanation: [Factory lacks policy on harassment and abuse.](#)

Plan Of

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Harassment or Abuse: Discipline/Monetary Fines and Penalties

H&A.8 Employers shall not use monetary fines and penalties as a means to maintain labor discipline, including for poor performance or for violating company rules, regulations, and policies. (S)

Noncompliance

Explanation: [Factory used monetary fines. Workers are fined from 20,000 VND to 400,000 VND for violation of labor regulations.](#)

[Legal Reference: Decree 41/CP](#)

**Plan Of
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Child Labor: Proof of Age Documentation

CL.3 Employers shall collect and maintain all documentation necessary to confirm and verify date of birth of all workers, such as birth certificates. In addition, the employers shall take reasonable measures to ensure such documentation is complete and accurate. (P)

Noncompliance

Explanation: [Factory lacks effective policy and procedure to control and prevent child labor through careful checking of ID.](#)

**Plan Of
Action:**

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**Plan
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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: In at least 5/17 reviewed cases, workers were under 18 years old, but factory lacks policy and practices to provide special protection as per law.

**Plan Of
Action:**

**Deadline
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Action Taken:

**Plan
Complete:**

**Plan
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Date:**

Non-Discrimination: General Compliance Non-Discrimination

D.1 Employers shall comply with all local laws, regulations and procedures concerning non-discrimination. (S)

Noncompliance

Explanation: [Factory lacks policy on non-discrimination.](#)

Plan Of

Action:

Deadline

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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: 1. Company does not communicate code obligations to management or workforce.
2. Orientation training not given to workers. Workers lack awareness of company's Code of Conduct.

**Plan Of
Action:**

**Deadline
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**Action
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**Plan
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Health and Safety: General Compliance Health and Safety

H&S.1 Employers shall comply with all local laws, regulations and procedures concerning health and safety. (S)

Noncompliance

Explanation: 1. Lightning test not conducted in 2008.

2. Did not pay environmental protection fee for wastewater, as required by government quarterly.

3. Wastewater not treated prior discharging into the system of industrial park.

4. Hazardous wastes and waste containers stored in open area without roof, secondary containment or fire equipment.

5. Could not show any contract with authorized waste removal service company.

6. Have not conducted internal work environment measurement in 2008.

Legal Reference: Circular 13/BYT-TT, Part II, point 2.1.3

7. Health checks for workers were not conducted in 2008.

Legal Reference: Circular 13/BYT-TT, Part III, point 3.2.2

8. Safety committee not established; no meetings or training record available.

9. Electrical grounding test not conducted in 2008.

Plan Of Action: Lightning and ground tests conducted. Factory will pay for environmental protection fee. Wastewater treated prior to discharging into industrial system. Hazardous wastes stored indoor, in secondary containment, fire extinguishers provided. Wastes transferred to authorized service. Factory will measure workplace environment as required by local law and will conduct health checks for workers. Safety committee established; meeting organized with worker's present to improve work condition.

Deadline Date:

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: [Factory lacks hazardous waste permit.](#)

Plan Of Action: [Factory to register to local authorities to obtain the hazardous waste permit.](#)

**Deadline
Date:**

**Action
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**Plan
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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. No official fire drill training organized with local fire department, as per local law.
2. Fire safety plan not available. Evacuation plan is hiding and not visible in workplace.

Plan Of Action: 1. Factory to conduct fire drill at least once year as per local law.
2. Factory to prepare fire safety plan and submit to local fire police for approval.
3. Evacuation plan should be made visible and accessible.

**Deadline
Date:**

**Action
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**Plan
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**Plan
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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:**
1. No emergency light, exit sign and fire extinguisher in sample room or worker canteen. In workshop, exit signs are not lighted and not standard.
 2. Fire hydrant outside factory broken. Fire extinguishers not all checked and maintained regularly. Some fire extinguishers blocked and not kept clear.
 3. Factory not provided powder extinguishers (MFT 35) for warehouses yet (cited by local fire police July 18, 2007).
 4. Factory has no fire detection system for material and finished product warehouses.
 5. First aid boxes were not stocked. No first aid procedure or training.

- Plan Of Action:**
1. Review installation of exit sign, emergency light and fire extinguisher and provide where needed. Exit signs should be lighted and standard.
 2. Fix broken fire hydrant. Extinguishers checked, maintained, kept unblocked and clear.
 3. Powder extinguishers equipped as per requirement of local fire department.
 4. Fire detection systems installed for material and finished product warehouses.
 5. First aid boxes should be full at all times. First aid procedures available at first aid station. Selected employees trained on first aid.

**Deadline
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Taken:**

**Plan
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**Plan
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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: Personal protective equipment (PPE) not used consistently or properly. No workers seen to use hearing protection. None have chemical masks. Some workers wore gloves and dust masks. Welding workers seen without eye and hearing protection.

**Plan Of
Action:** Factory to conduct a risk assessment to provide proper PPE to workers.

**Deadline
Date:**

**Action
Taken:**

**Plan
Complete:**

**Plan
Complete
Date:**

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. Chemical containers not labeled properly.
2. No evidence of chemical safety training.

Plan Of Action: 1. Chemical containers should be properly labeled in worker's language.
2. Pre-job and ongoing trainings should be provided to workers.

Deadline Date:

Action Taken:

Plan Complete:

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: [MSDS not available at production lines where chemicals are used.](#)

Plan Of Action: [Factory to make MSDS available in areas where workers are exposed to chemicals.](#)

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

Health and Safety: Chemical Management for Pregnant Women and Young Workers

H&S.15 To prevent unsafe exposure to hazardous chemicals, specific appropriate accommodations shall be made for pregnant women and workers under the age of 18 as required by applicable laws or the provisions of the FLA Code in a manner that does not unreasonably disadvantage workers. (S)

Noncompliance

Explanation: 1. Hazardous chemicals are widely used without proper precautions, including banned or restricted solvents such as Toluene and Methylene Chloride.

2. Factory lacks systems and precautions for the safe handling of chemicals. Containers are often open and uncovered.

Plan Of Action: 1. Toluene and Methylene Chloride should not be used widely; factory has to monitor exposure limits to control concentration of hazardous chemicals in the air.

2. Factory to set up systems and precautions for the chemical safety handling.

Deadline

Date:

Action

Taken:

Plan

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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: Ventilation in factory is poor in main production area, especially the outsole section. Floor standing fans are used for both air circulation and for exhaust ventilation.

Plan Of Action: Factory to look for an efficiency solution for ventilation.

Deadline Date:

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: 1. Fan covers have large gaps and are unsafe.

2. No needle guards on sewing machines.

3. Air compressor operators not trained on safety operations.

4. 1 air compressor located inside building (outsole factory).

5. Factory uses high risk machines (cutting, pressing, rolling machines), but lacks safety sign and training.

**Plan Of
Action:**

1. Factory will adjust the gaps of fans.

2. Needle guards must be installed on sewing machines.

3. Workers that operate high risk machines and air compressor operators must be trained on safety operations.

4. Air compressor should be moved to non-production to reduce explosive risk.

5. Safety signs should be posted on high risk machines. Safety training should be provided to workers operating high risk machines.

**Deadline
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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: Clinic was locked on day of audit. Nurse was reported absent.

Plan Of Action: Medical personnel must be available during working time.

Deadline Date:

Action Taken:

Plan Complete:

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: Toilets are not clean or hygienic. No soap or paper available for workers to use.

Plan Of Action: Toilets should be kept clean and hygienic. Soap and running water should be available.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

Health and Safety: Food Preparation

H&S.25 All food made available to workers shall be prepared, stored, and served in a safe and sanitary manner in accordance with all applicable laws. All workers handling food shall be provided with the tools and equipment necessary to do so in a safe and sanitary manner. (S)

Noncompliance

- Explanation:**
1. Hygiene in canteen and kitchen is poor.
 2. Canteen workers were not trained on food safety in 2008.
 3. Factory did not conduct required health examinations for canteen workers.
 4. Water used for cooking is not tested quarterly.

- Plan Of Action:**
1. Canteen and kitchen should be kept hygienic.
 2. Canteen workers are trained on food safety handling.
 3. Factory to conduct health examinations for canteen workers.
 4. Water used for cooking is tested quarterly.

**Deadline
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**Action
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Date:**

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: Drinking water provided free to workers, but water quality tests are not conducted regularly.

Plan Of Action: Factory to test water quality to make sure water is qualified for drinking.

Action:

Deadline

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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: Review of 30 monthly cases in different departments from September to November 2008 found the following cases of workers working over 60 hours per week:

1. 4 cases of workers working from 64 – 68 hrs/wk for 1 week in September
2. 3 cases of workers working from 61 – 66 hrs/wk for 2 weeks in September
3. 10 cases of workers working from 61 – 66 hrs/wk for 3 weeks in September
4. 1 of case workers working from 63 – 66 hrs/wk for 4 weeks in September
5. 9 cases of workers working from 61 – 66 hrs/wk for 1 week in November
6. 5 cases of workers working from 62 – 66 hrs/wk for 2 weeks in November

**Plan Of
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**Deadline
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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: Review of 30 monthly cases in different departments from September to November 2008 found:

1. 4 cases of workers working on 1 Sunday in September 2008.
2. 10 cases of workers working on 1 Sunday in October 2008.
3. 13 cases of workers working on 1 Sunday in November 2008.
4. 2 cases of workers working on 2 Sundays in November 2008.

**Plan Of
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**Deadline
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Hours of Work: Overtime/Reduced Mandated Overtime

HOW.8 The employer shall demonstrate a commitment to reduce overtime and to enact a voluntary overtime system, including for overtime mandated to meet extraordinary business circumstances. (P)

Noncompliance

Explanation: [Factory lacks voluntary OT policy and practices. Workers were given warning letters for refusing OT.](#)

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

**Plan
Complete:**

**Plan
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Date:**