



2008

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** Nike, Inc.  
**COUNTRY:** China  
**FACTORY CODE:** 070015902G  
**MONITOR:** SGS (Societe General du  
Serveillance)  
**AUDIT DATE:** October 6 – 9, 2008  
**PRODUCTS:** Bags  
**PROCESSES:** Cutting, Sewing, Packing  
**NUMBER OF WORKERS:** 758



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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:** Factory did not provide all 5 social insurances to all employees. Only 3 kinds of social insurance, including retirement, accident and medical insurance, provided to all employees. No unemployment and maternity insurances provided. Local social insurance administrative department provided unemployment and maternity insurances. But, factory did not buy these 2 insurances for workers.

Legal references: China Labor Law, Articles 72 and 73. Article 72: Sources of social insurance funds shall be determined according to categories of insurance, and an overall pooling of insurance funds from society shall be introduced step by step. Employing unit and laborers must participate in social insurance and pay social insurance premiums in accordance with law. Article 73: Laborers shall, in accordance with law, enjoy social insurance benefits under following circumstances: 1) retirement; 2) illness or injury; 3) disability caused by work-related injury or occupational disease; 4) unemployment; and 5) childbearing.

Remark: 1 waiver was obtained from local social insurance administrative department to prove that such percentage meets local requirement. Factory stated that some workers did not want to pay social security. Factory also provides some announcement of workers for automatic giving up social security.

**Plan Of Action:** Factory receives a waiver from local social insurance bureau dated Oct.7 2008. We are working with the factory to develop a good plan to implement the unemployment and maternity insurance for all employees. The final goal to implement 100% of all 5 kinds of social insurance for all employees is by 2010.

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

**Action Taken:**

**Plan Complete:**

**Plan**  
**Complete**  
**Date:**

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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:** The Chinese constitution guarantees Freedom of Association; 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 freedom of association, 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. Recently, 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 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.

Independent unions legally prohibited in Chinese factories. There is 1 trade union established in factory. But, union is led by management and local official ACFTU. The chairman of trade union is a factory manager. Most workers participated in selection of trade union representatives. Main leaders selected by workers.



**Plan Of Action:**

1. Factory is directed to establish and announce a formal communication channel to promote dialogue and communication between factory management and union/worker representatives. Factory must recognize the rights of workers to freely associate.
2. We will check with union on election process and follow through on requirements of union.
3. We will urge factory to increase more channels as management-worker communication channels.
4. Factory is directed to conduct capacity building program to trade union committee members and conduct trainings to all workers on trade union's function and worker's relevant rights.

**Deadline Date:** 02/01/2010

**Action Taken:**

**Plan Complete:**

**Plan Complete Date:**

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**Freedom of Association: Right to Collective Bargaining/Compliance with Collective Bargaining Agreement**

FOA.22 Employers, unions and workers shall honor in good faith, for the term of the agreement, the terms of any collective bargaining agreement they have agreed to and signed. Worker representatives and workers shall be able to raise issues regarding compliance with a collective bargaining agreement by the employer without retaliation or any negative effect on their employment status. (S)

**Noncompliance**

**Explanation:** [There was no collective bargaining agreement available in factory.](#)

**Plan Of Action:** [We will encourage factory to conduct trainings for workers and have capacity building programs to trade union cadres on this issue.](#)

**Deadline Date:** [01/01/2011](#)

**Action Taken:**

**Plan Complete:**

**Plan Complete Date:**

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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:** No noncompliance reporting mechanism which allows factory workers to contact Company was established.

**Plan Of Action:** We will require factory to post our hotline number on bulletin board and inform workers that they can report any noncompliance issues to brand directly and confidentially. Brand is also working with an NGO to set up worker hotline as another channel to get workers' voices.

**Deadline Date:** 06/01/2009

**Action Taken:**

**Plan Complete:**

**Plan Complete Date:**

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## Miscellaneous: Illegal Subcontracting

MISC.1 Illegal Subcontracting

### Noncompliance

**Explanation:** 1. Factory used some subcontractors in production of embroidery and high-frequency items. Factory stated that no contracts between them and these subcontractors involved issues of social responsibility or FLA Code of Conduct.

2. Factory stated that all subcontractors were approved by Nike. But, factory did not provide evidence to prove that these subcontractors had been approved by Nike.

**Plan Of Action:** Factory is required to keep all documents and records of their monitoring/supervising of its subcontractors; company will check documents.

**Deadline Date:** 08/31/2009

**Action Taken:**

**Plan Complete:**

**Plan Complete Date:**

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## 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. Factory did not obtain Building Structure Safety Certificate for factory production buildings and dormitory buildings.

Legal reference: Construction Law of PRC, Article 61: A construction project may only be handed over for use upon passing acceptance checks; no construction project shall be handed over for use without going through acceptance checks or passing acceptance checks.

2. All 12 security guards at factory did not obtain security guard qualification certificates.

Legal reference: Regulations on Security Service in [Province name]: Candidate shall undergo special training of training facilities that are approved by public security organ, and obtain provincial qualification certificate issued by public security organ above county level.

**Plan Of Action:** We will urge factory to undergo special training to obtain qualification certificates.

**Deadline Date:** 07/01/2009

**Action Taken:**

**Plan Complete:**

**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:** No sprinkler system was installed in factory.

**Plan Of Action:** We will urge factory to install sprinkler system. Meanwhile, we require factory to set up functioning H&S system and H&S Committee to regularly check and improve H&S conditions in factory. H&S trainings should be provided to workers in orientation and on a regular basis on the importance of these issues.

**Deadline Date:** 10/01/2009

**Action Taken:**

**Plan Complete:**

**Plan Complete Date:**

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## Health and Safety: Personal Protective Equipment

H&S.11 Workers shall be provided with effective and all necessary personal protective equipment (PPE)(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:** 1. No PPE signs or diagrams posted to remind printing semi-products inspectors and workers who worked at workshop where paints are used.

Legal reference: Regulations on Safety Administration of Dangerous Chemicals, Article 23: Specialized warehouses for dangerous chemicals shall satisfy requirements of national standards on safety and fire control; prominent signs shall be set up for these warehouses. Storage equipment and safety facilities for these warehouses shall be checked at regular intervals.

2: Although factory provided active carbon masks for workers who worked at workshop where paints are used, these workers did not wear active carbon masks during audit.

Legal reference: China Labor Law, Article 54: Employing unit must provide laborers with safe and healthy working environment conforming to provisions of state and necessary articles of labor protection, and provide regular health examinations for laborers engaged in work with occupational hazards.

**Plan Of  
Action:**

Factory is required to:

1. Post PPE signs at necessary areas.
2. Enhance warehouse management.
3. Train workers in PPE usage.

Meanwhile, we require factory to set up functioning H&S system and H&S Committee to regularly check and improve H&S conditions in factory. H&S trainings should be provided to workers in orientation and on a regular basis on the importance of these issues.

**Deadline  
Date:** 07/01/2009

**Action  
Taken:**

Plan  
Complete:

Plan  
Complete  
Date:

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### 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:** There was no MSDS for paint in workshop where paint is used.

Legal reference: Regulations on Safety in Workplaces Where Chemicals Are Used, Article 12: Chemicals used by employing units shall have labels, and dangerous chemicals should be attached with safety labels. Also, safety and technical instructions of chemicals shall be available for operators engaged in use of chemical.

**Plan Of Action:** We will urge factory to post all MSDS and enhance chemical labeling. Meanwhile, we require factory to set up functioning H&S system and H&S Committee to regularly check and improve H&S conditions in factory. H&S trainings should be provided to workers in orientation and on a regular basis on the importance of these issues.

**Deadline Date:** 07/01/2009

**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:** Kitchen was in disorder and wet. There is a lot of water on floor of kitchen.

**Plan Of Action:** Factory is required to improve canteen sanitation and set up supervision rules for continuous improvement.

**Deadline Date:** 02/01/2009

**Action Taken:**

**Plan Complete:**

**Plan Complete Date:** 12/01/2008

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