



2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Nike, Inc.
COUNTRY: Vietnam
FACTORY CODE: 0700841230I
MONITOR: Global Standards
AUDIT DATE: November 25 – 26, 2010
PRODUCTS: Garments
PROCESSES: Cutting, Sewing, Finishing
NUMBER OF WORKERS: 5295



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Wages, Benefits, and Overtime Compensation: False Payroll Records

WBOT.19 Employers shall not use hidden or multiple payroll records in order to hide overtime, to falsely demonstrate hourly wages, or for any other fraudulent reason. Payroll records maintained shall be authentic and accurate. (P)

Noncompliance

Explanation: Payroll records do not show all overtime work or Sunday work. Discrepancies between piece rate production records, payroll, and interviews prevent monitors from verifying completeness and accuracy of pay to workers.

Plan Of Action: The company held an investigation on the finding in August 2011, and it was verified that the records' inaccuracy was due to the different practices of recording daily piece rate output for different workshops. This factory paid workers based on piece rate wages. The production records recorded by workers were not accurately reflecting their daily output, and, instead were just an average output throughout the month (total monthly output/30). Hence, the monthly total number of pieces per month was accurate, while the number of days taken into account for calculation involves the full month including Sundays, although there is no Sunday work. However, the factory was requested to:

1. Revise their policy about recording daily piece rate output and make a consistent way of recording daily output;
2. Make sure that all employees understand this requirement.

Deadline Date: 11/26/2011

Action Taken: Nike update, May 2013: The factory has completed the actions below:

1. The factory made requirements for all departments to record daily actual piece rates. (September 5, 2012)
2. The factory had meetings with all department heads and employees to explain this requirement. (September 6, 2012)
3. Daily output was recorded accurately since September 2012.

Plan Complete: Yes

Plan Complete Date: 09/06/2011

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 (FOA) 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 Action: The factory follows the law on this FOA item. The employees are free to join the trade union; they are not treated different from other non-trade union members. The trade union organizes many activities for their members: birthday gift, sport events, music shows, and financial support in the event of accidents and/or poverty.

Deadline Date: 08/23/2011

Action Taken: [Nike update, May 2013:](#)

1. 5,000 employees are trade union (TU) members (95%). The factory's Collective Bargaining Agreement (CBA) was registered and approved by the local trade union on January 30, 2012, and will expire January 30, 2015.
2. Factory TU organized training for employees about their rights, roles, responsibilities, and benefits during orientation training. The most recent training was March 15, 2013 (the role of the trade union is to be the channel between employee and employer; their responsibilities are contributing monthly trade union fee, selecting trade union chairman, attending some trade union meetings).

3. Factory TU organized many activities for their employees: Women's Day, team building, and sports contest.

4. Factory TU monthly communications (newsletter, meeting) update employees about the unions' activities.

5. Employees selected factory TU representatives by ballot form on May 12, 2012.

Plan Complete: No

Plan Complete Date:

Code Awareness:

GEN.1 Establish and articulate clear, written workplace standards. Formally convey those standards to Company factories as well as to licensees, contractors and suppliers.

Noncompliance

Explanation: No code of conduct (COC) posters are available in the factory for Umbro. Codes are posted for other brands, including Nike. No direct channel to Umbro, but Nike has set up a hotline for workers to call.

Plan Of Action: As the factory produces for both Nike and Umbro, Nike, Inc.'s COC is requested to be posted at the factory.

Deadline Date: 11/26/2011

Action Taken: Nike update, May 2013: Nike's Code of Conduct was posted in the workshop on January 2, 2013.

Plan Complete: Yes

Plan Complete Date: 01/02/2013

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: Most first aid boxes were empty on the day of audit and not restocked. Factory management reported that they reviewed this issue at a workplace safety meeting held on November 24 and are looking for solutions.

Plan Of Action: The factory has to assign a person to monitor first aid boxes to make sure that they are stocked enough.

Deadline Date: 11/26/2011

Action Taken: Nike update, May 2013: The factory has completed the following since August 30, 2011:

1. All medicine in first aid boxes were filled in full.
2. Medical staff is to check the first aid boxes weekly to ensure they are fully stocked.

Plan Complete: Yes

Plan Complete Date: 08/30/2011

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) is available in the factory, but signs about PPE requirements are not posted (i.e., hearing protection in embroidery). It was observed that workers in the embroidery section put on ear protection only when auditors came in; manager had no ear protection at all. Cutting gloves were put on to show auditors, but not used at other times. In down-fill rooms, workers were using some PPE (cloth masks, net hoods), but no PPE was available for visiting auditors or compliance staff who entered the room without PPE.

Legal Reference: Article 97 of the Labor Code, Decree 06/CP, Article 4, Circular 13/BYT

Plan Of Action:

1. Factory management has to schedule and conduct PPE training for all workers who are required to use it.
2. Supervisors should conduct periodic checks to verify that workers in their areas (embroidery rooms, down-filling rooms, cutting areas) who are required to use PPE have proper PPE and are using it correctly.

Deadline Date: 11/26/2011

Action Taken: Nike update, May 2013: The factory has completed the following since September 5, 2011:

1. PPE requirements were posted in the workshops (embroidery).
2. Supervisors have the responsibility to monitor the effectiveness of PPE.

Plan Complete: Yes

Plan Complete Date: 09/05/2011

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: Hazardous chemicals are not handled safely and properly. QC does spot cleaning at the head of each line. Initially, staff reported that they are using only soap powder. However, auditors then found alcohol, Xang Thom (thinner-solvent) and a spotlifting spray, which were hidden in product carts and trash baskets. Factory has conducted training on chemical safety, but lacks the material safety data sheet (MSDS) for Xang Thom and detailed training contents or materials. Management and workers seem more concerned with hiding chemicals than with chemical hazards, safety or proper PPE use.

Legal Reference: Chemical Law, Clauses 30, 35

**Plan Of
Action:**

The factory has to revise their chemical management program to ensure that:

1. All chemicals are stored properly in separate and ventilated areas.
2. All MSDS and PPE are provided to affected employees.
3. Chemical management requirements in the program involve the training of all workers exposed to chemicals.
4. The roles and responsibilities of the person to monitor effectiveness of this program are clearly defined.

**Deadline
Date:**

11/26/2011

**Action
Taken:**

Nike update, May 2013: The factory has completed the following since September 2011:

1. All chemicals are properly stored.
2. All MSDS and PPE are available.
3. Chemical training was given to employees.
4. Roles and responsibilities were assigned to safety officers (133 persons) at workshop to monitor effectiveness.

Plan Yes
Complete:

Plan 09/01/2011
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 information was not available for Xang Thom (solvent) and a spotlifting spray. Spotlifting spray was not found in the chemical warehouse with other chemicals, but apparently is stored in a secret location in production.

Legal Reference: Chemical Law, Clause 30

Plan Of Action: The factory has to work with chemical vendors to get the MSDS and train all affected employees. The factory has to revise their chemical management program to ensure:

1. All chemicals are stored properly in separate and ventilated areas.
2. All MSDS and PPE are provided to affected employees.
3. Chemical management requirements in the program shall involve the training of all workers exposed to chemicals.
4. The roles and responsibilities of the person to monitor effectiveness of this program are clearly defined.

Deadline 11/26/2011
Date:

Action Taken: [Nike update, May 2013](#): The factory has completed actions below:

1. MSDS were provided August 24, 2011.
2. Employees were trained on MSDS September 1, 2011.

Plan Complete: Yes

Plan Complete Date: 09/01/2011

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: [Needle guards are not installed on most sewing machines.](#)

[Legal Reference:](#) Labor Code, Article 98

Plan Of Action: The factory has to review all sewing machines and check for those that lack needle guards. The factory has to install necessary needle guards and provide training to all affected employees.

Deadline Date: 11/26/2011

Action Taken: [Nike update, May 2013](#): The factory has completed the following since September 6, 2011:

1. Needle guards were installed for all machines.
2. Roles and responsibilities were assigned to safety officers (133 persons) at workshop to monitor effectiveness.

Plan Yes
Complete:

Plan 09/06/2011
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: [Canteen is not clean and hygienic; canteen workers do not wear proper equipment for hygiene and personal protection. Staff wore flip-flops and food was seen being prepared on the floor. Food was uncovered and exposed to flies and insects.](#)

[Legal Reference: Decision 4128/2001/QD-BYT](#)

Plan Of Action: [The factory has to make sure that the canteen vendor works in compliance with the law. The canteen employees have to be trained in canteen management, including food process, hygienic practice, PPE.](#)

Deadline Date: [11/26/2011](#)

Action Taken: [Nike update, May 2013:](#)

- [1. The factory ended its contract with the canteen vendor in May 2013.](#)
- [2. The factory is looking for a new vendor.](#)

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: Workers sometimes work on Sunday/rest day and are paid separately outside of payrolls. Daily production records revealed Sunday work on August 22, 2010 and October 17 and 24, 2010.

Legal Reference: Labor Code, Article 72 [Employees are entitled to a rest of at least 1 day (24 consecutive hours) per week. In exceptional circumstances where weekly leave cannot be arranged due to labor cycles, employees shall receive at least 4 days of rest per month.]

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1. The factory made requirements to all departments to record daily actual piece rates. (September 5, 2011)
2. The factory had meetings with all department heads and employees to explain this requirement. (September 6, 2011)
3. Daily output was recorded accurately since September 2011.

Plan Complete: Yes

Plan Complete Date: 09/06/2011

Hours of Work: Time Recording System

HOW.6 Time worked by all workers, regardless of compensation system, shall be fully documented by time cards or other accurate and reliable recording systems such as electronic swipe cards. Employers are prohibited from maintaining multiple time-keeping systems and/or false records for any fraudulent reason, such as to falsely demonstrate working hours. Time records maintained shall be authentic and accurate. (P)

noncompliance

Explanation: [Time recording system is not accurate. Attendance records did not reveal any Sunday work, which was observed through production records.](#)

Plan Of Action: [The company held an investigation on the finding in August 2011, and it was verified that the records' inaccuracy was due to the different practices of recording daily piece rate output for different workshops. This factory paid workers based on piece rate wages. The production records recorded by workers were not accurately reflecting their daily output, and, instead were just an average output throughout the month \(total monthly output/30\). Hence, the monthly total number of pieces per month was accurate, while the number of days taken into account for calculation involves the full month including Sundays, although there is no Sunday work. However, the factory was requested to:](#)

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**Plan
Complete
Date:** 09/06/2011
