



2009

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** Mainland Headwear

**COUNTRY:** China

**FACTORY CODE:** 900015449HV

**MONITOR:** Openview Service Limited

**AUDIT DATE:** December 21-22, 2009

**PRODUCTS:** Headwear

**PROCESSES:** Cutting, Embroidery, Sewing,  
QC, Ironing, Packing

**NUMBER OF WORKERS:** 2,823

For an explanation on how to read this report, please visit the FLA website [here](#).



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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:** 1. Per information gathered from workers and management and record review, there was no paid late marriage leave (additional 10 days paid leave for people married female after 23 years old and male after 25 years old) provided in the factory.

2. Per insurance receipt review from September 2009 to November 2009, and information gathered from workers and management, the factory provided pension for 2175 out of 3210 employees and unemployment insurance for 2 out of 3210 employees; it did not provide maternity insurance for any employee in November 2009. The local social insurance management bureau issued a certificate on July 15, 2009, saying that the factory bought social insurance for workers according to local governmental requirements, and there was no female worker who was a local resident of proper age working in the factory; therefore, there was no need for the factory to buy maternity insurance. Workers signed agreements with the factory saying that they were either willing or unwilling to buy pension. The factory would provide pension for workers who were willing to buy it.

Legal References: 1. Article 51 of China Labour Law, 2. Article 73 of China Labour Law

**Plan Of Action:** 1. The late marriage leave policies would be set up and made public to each employee.  
2. Not every employee wishes to buy pension, as 8% of their salary would be deducted. We received complaints from employees when we wanted every employee to join. Thus, we decided to only buy pension for those who voluntarily chose it. Meanwhile, we promote the pension policies to every employee in our monthly EHS trainings and orientation trainings, hoping the pension covering percentage will grow over time.

**Deadline Date:** 01/14/2012



**Action Taken:** 1. The late marriage leave policies have been set up and made public to each employee. It is also included in our 2010 employee handbook.

2. Not every employee wishes to buy pension, as 8% of their salary would be deducted. We received complaints from employees when we wanted every employee to join. Thus, we decided to only buy pension for those who voluntarily chose it. Meanwhile, we promote the pension policies to every employee in our monthly EHS trainings and orientation trainings, hoping the pension covering percentage will grow over time. The last EHS training about social insurance was December 28, 2009.

**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:** Although our trade union is under ACFTU, it still functions well. The president of the trade union was elected by our employees. The representatives negotiate with factory management on important issues and meet with the management once every 2 months to exchange opinions, for example, Chinese New Year (CNY) holidays and annual party arrangements. The trade union is also a channel for employees to let out their demands. Right before CNY, the employees hoped the employers could help book tickets in advance. The employers received the demands from the trade union; thusly, the administrative department set up a ticket-booking program for CNY this year. The trade union also works closely with the local ACFTU, holding trainings for our employees. The most recent training was held November 4, 2009; a doctor from the local hospital was invited to give a lecture on general medical knowledge and birth control.



**Deadline** 04/30/2010  
**Date:**

**Action Taken:** Update: On August 12 and 13, the local ACFTU and our trade union worked together and held a Safe Production Training. A professional trainer was invited to our facility and gave lectures to boost the employees' awareness of safety. About 300 employees participated.

**Plan Complete:** No

**Plan Complete Date:**

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### **Harassment or Abuse: Discipline/Review of Disciplinary Action**

H&A.3 The disciplinary system shall include possibilities for workers to have disciplinary action imposed on them reviewed by someone at a higher managerial position than the manager who imposed the disciplinary action. In addition, such a system shall include the ability of a worker to appeal and/or question any disciplinary action against him or her and/or have a third party of his or her choice present when the disciplinary action is being imposed. (P)

#### **Noncompliance**

**Explanation:** It was confirmed by regulation review and management interview that the disciplinary system did not include workers the ability to appeal and/or question any disciplinary action against them and/or have a third party of their choice present when the disciplinary action was being imposed.

**Plan Of Action:** The appeal system is written in our new 2010 employee handbook, clearly stating the appeal mechanism. The handbook would make its debut after Chinese New Year and a training would be held, giving a lecture to every employee on every updated policy.

**Deadline** 05/31/2010  
**Date:**

**Action Taken:** The appeal system is written in our new 2010 employee handbook, clearly stating the appeal mechanism. The handbook also made its debut in April. Training was also held, so that every employee knows every updated policy. The appeal system is also included in our orientation training, so that every one could make use of this system.

**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 confirmed by factory walkthrough that there was an age (18 to 30 years old) limitation on a recruitment advertisement posted at the entrance of the factory gate.

Legal References: Article 12 of China Labour Law; Article 20 of Provisions on Employment Services and Employment Management

**Plan Of Action:** We would immediately remove any discrimination from our recruitment advertisements. We already have non-discrimination policies in place and we would keep educating our employees, especially our administrative staff members who handle recruiting work.

**Deadline** 03/31/2010  
**Date:**

**Action Taken:** On March 26 and August 6 in 2010, we held trainings on our anti-discrimination policies. 8 of our administrative staff participated in the training, especially our recruiting staff.

**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:** 1. Based on review-related records and factory management interview, it was found that there was no Fire Permit or Structure Safety Inspection Certificate for production building D available in the factory.

2. There were 6 lifts in the factory, but only 3 workers received lift operation certificates, among of whom 1 worker's certificate expired on August 5, 2009.

Legal References: 1. Article 13 of China Fire Prevention Law, Article 61 of China Construction Law, 2. Article 39 of Regulations on Safety Supervision over Special Equipment





**Plan Of Action:** 1. Fire Permit and Structure Safety Inspection Certificate for Production D is already in process. However, there was 1 fatal fire in the local area. It is very difficult to obtain such kind of permit at this stage of time. We would continue to urge the local government.

2. Will renew the expired operation certificates as soon as possible. These kinds of certificates' expiration date would be on the checklist of our internal audit in the future to avoid repeated noncompliance. Meanwhile, we would look for 3 more certificated operators or select workers to be certificated internally.

**Deadline Date:** 03/31/2011

**Action Taken:** Up to August, we still cannot have the permit from the government. Please extend the completion date to December while we urge the local government.

**Plan Complete:** No

**Plan Complete Date:**

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### 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:** It was confirmed through factory walkthrough that the medical supply in the first aid kits in the canteen and washing department were insufficient according to medical supply lists kept in first aid boxes.

Legal Reference: Article 23 of China Law on Prevention and Control of Occupational Diseases

**Plan Of Action:** We would distribute the medical supply weekly checklists to washing department and canteens for them to check internally. Also, we would hold designated staff in the washing department and canteens responsible when there is a shortage.

**Deadline Date:** 01/14/2012

**Action Taken:** We have distributed the medical supply weekly checklists to the washing department and the canteens for them to check internally. Also, we held the assistant in the washing department and the supervisors in the canteens responsible. Reference photos sent to the FLA for review.

**Plan Complete:** No

**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 (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:** It was confirmed through factory walkthrough that workers operating sweatband machines did not wear masks.

Legal Reference: Article 54 of China Labour Law

**Plan Of Action:** For certain fabrics, there would be some debris generating from sweatband machines. Masks will be distributed to sweatband operators. Personal protective equipment (PPE) trainings would be provided to them as well.

**Deadline Date:** 01/14/2012

**Action Taken:** For certain fabrics, there would be some debris generating from sweatband machines. Masks have been distributed to sweatband operators. PPE trainings have been provided to them as well to make sure they use the PPE in a right way when they need to. Reference photos have been sent to the FLA for review.

**Plan Complete:** No

**Plan Complete Date:**

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## 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:** White oil used on the fourth floor in production Building A was placed beside workers drinking water bottles; 3 barrels of white oil (around 5kg per barrel) were placed right on the floor without proper secondary methods to prevent possible leaking.

Legal Reference: Article 16 of Regulations on the Safety Administration of Dangerous Chemicals

**Plan Of Action:** The white oil would be taken away from the drink area immediately. We already have secondary container to avoid possible leaking. However, designated user did not put the barrel back properly, leaving it on the floor. We would continue to train the staff and hold them for responsibility.

**Deadline Date:** 03/31/2010

**Action Taken:** The white oil has been taken away from the drink area immediately. We already have secondary container to avoid possible leaking. However, designated user did not put the barrel back properly, leaving it on the floor. We have been training the staff and hold them for responsibility. Reference photos sent to the FLA for review.

**Plan Complete:** No

**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:** It was confirmed through factory walkthrough that covers of moving belts of 3 small washing machines were insufficient, which were not enough to cover all belts.

Legal Reference: Article 6.1.6 of General rules of design on health and safety of production facility (GB5083-1999)

**Plan Of Action:** We will add enough coverage to these 3 new small washing machines as soon as possible.

**Deadline Date:** 01/14/2012

**Action Taken:** We have added enough coverage to these 3 new small washing machines. Reference photos sent to the FLA for review.

**Plan Complete:** No

**Plan Complete Date:**

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### 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:** On-site observation found that 2 exit doors on fourth and fifth floors in dormitory Building C had no exit signs. It was confirmed through factory walkthrough that there were only 2 emergency lights on each floor in dormitory Building C. The distance between these 2 emergency lights was much longer than 20 meters as per legal regulation.

**Plan Of  
Action:**

**Deadline  
Date:**

**Action  
Taken:**

**Plan        No  
Complete:**

**Plan  
Complete  
Date:**

## 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:** 3 out of total 5 workers interviewed off site, and 2 out of a total 42 workers interviewed on site reported that they usually worked 6:30pm to 8:30pm or 10:30pm at night, sometimes on Sundays. But based on time record review from December 2008 and November 2009, no overtime hours past 7:30pm or Sunday work for non-embroidering workers were found. Based on the review of trimming records, broken needle logs, raw material distribution records, workers leave records, other production records and time records, it was found that there was no any discrepancy among these records.

**Plan Of Action:** Right before the CNY in 2009, some workers were arranged to work overtime on Sundays because the production scheduling was quite busy. We obtained their consent and they were compensated with OT premium. The interviewees might just happen to be those employees who worked on Sundays. As for OT at night reported in the findings, they might be workers from the embroidery department that work in 2 shifts. Considering that there is only a small ratio of employees reporting differently, we think the worker could probably be too nervous during the interview, misunderstanding the question, and thus gave out the wrong answers. We also investigated by ourselves: from records in December 2008 to November 2009, there are no non-embroidery workers who worked OT on Sundays or late in weekdays. We also questioned the production floor manager if there were employees working off the clock to earn extra piece rate salary. However, they all guaranteed there was no such a situation. To prevent such situation, the top management has already made an announcement that one working off clock for extra salary is strictly forbidden. Compliance Department also has stepped in and monitored internally.

**Deadline Date:** 03/31/2010

**Action Taken:**



**Plan**      **No**  
**Complete:**

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

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