



2009

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Mountain Equipment Co-op
(MEC)

COUNTRY: Vietnam

FACTORY CODE: 410084414H

MONITOR: One Step Viet Co., Ltd.

AUDIT DATE: November 27, 2009

PRODUCTS: Bags

PROCESSES: Cutting, Sewing, Heating,
Embroidery, Finishing, Packing

NUMBER OF WORKERS: 2050

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 non-compliances 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.*

Due to a 2011 IEV (Independent External Verification) at this factory, all updates after 2009 can be found in the IEV report [here](#).



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*Denotes a notable feature

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)

Notable Feature

Explanation: The factory provides benefits such as attendance bonus VND 50,000 (about 3 USD); transportation VND 50,000 (3 USD) and daily lunch allowance of VND 7,000 per meal for all workers.

Wages, Benefits and Overtime Compensation: Deposit of Legally Mandated Deductions

WBOT.13 All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc. The employer shall not hold over any of these funds from one pay period to the other unless the law specifies that deposits are to be made less frequently than pay periods (e.g., monthly deposits, weekly pay). If the law does not specify, then deposits shall be made before the next pay period in all cases. (S)

Noncompliance

Explanation: Factory hires some juvenile workers who did not sign employment contracts and therefore their legal benefits such as social, health insurances and unemployment benefits were not provided.

Law reference: According to Article 28 of Vietnam Labor Law

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Wages, Benefits and Overtime Compensation: Production and Incentive Schemes

WBOT.6 Employers shall not set production targets, piece rates or any other incentive or production system at such a level that workers need to work beyond normal working hours as set under the FLA Code, excluding overtime, in order to make the legal minimum wage or the prevailing industry wage, whichever is higher. (S)

Noncompliance

Explanation: [Factory arranged annual medical checkup for workers on October 25, November 1 and 8 \(Sundays\); however, factory did not calculate these hours as working hours for payment.](#)

[Law reference: Circular 13/BYT-TT dated on October 24, 1996.](#)

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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: **Vietnam-Specific 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.

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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: 1. Factory hires some juvenile workers who did not sign employment contracts and therefore their legal benefits such as social, health insurances and unemployment benefits were not provided.

Law reference: According to Article 28 of Vietnam Labor Law.

2. Through working time records review from November 2008 to October 2009, it was noted that 7 selected juvenile workers worked 8 hours a day and worked OT from up to 3 hours per day.

Law reference: Vietnam Labor Law, Article 122

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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: [The FLA affiliated company has not provided a code of conduct \(in local language\) for workers and managers and not undertaken any efforts to educate workers about the standards on a regular basis.](#)

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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: [The FLA affiliated company has not established a secure communication channel for the workers to report to them on noncompliance as defined in the code of conduct.](#)

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Health and Safety: Written Health and Safety Policy

H&S.3 Employers are required to develop, maintain and regularly review a written health and safety policy. The policy must, at the very least, be aimed at complying with legal minimum safety and health standards, regulations and procedures. (P)

Noncompliance

Explanation: [Factory does not have written policy on health and safety.](#)

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Health and Safety: Health and Safety Management System

H&S.5 The health and safety policy shall contain the framework for a comprehensive health and safety management system within which employers' responsibilities and workers' rights and duties, various responsibilities of designated personnel, procedures that enable workers to raise health and safety concerns and procedures for reporting death, injury, illness and other health and safety issues (for instance, near-miss accidents) are clear and regularly tested and reviewed. (P)

Noncompliance

- Explanation:**
1. Factory has more than 2,000 workers but no full-time in-charge person for health and safety in the factory.
 2. Factory has Safety Committee but no health and safety inspection has been conducted in the factory. According to Circular 14/1998/TT-LDTBXH-BYT dated on October 31, 1998.
 3. During the document review and management interview, it was noted that no assessment of working condition analysis has been conducted since 2006.

Law reference: In accordance with Vietnam Labor Law - Circular 09/BYT-BLDTBXH dated 21/10/1996

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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. Emergency lighting system is not installed at all the emergency exit doors.

Law reference: In accordance with TCVN 439/BXD-CSXD September 25, 1997 standard construction, Point: 11.6.1.5

2. Factory uses 1 type of alarm to start and end the work shift, lunch break, and for fire emergency. Workers would not be able to distinguish alarm in case of fire.

3. Several fire extinguishers in material warehouse and production floor have been blocked.

4. Evacuation maps were too small to be legible in case of emergency. Besides, several maps were obstructed by fabric.

Law reference: In accordance with Decree No. 35/2003/ND-CP date 4 April 2003

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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: [Factory did not conduct annual first aid training for workers since 2007.](#)

[Law reference: In accordance with Circular No.09/2000/TT-BYT dated 28 Apr 2000 “ Part III”](#)

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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: Workers are not allowed to wear shoes/slippers to production floor. Factory does not provide shoes or slippers for workers, either.

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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: 1. Hazardous chemicals (e.g., acetone, glue) were stored together with other stuff like tanks of drinking water, waste paper, etc.

2. No secondary container provided in machine oil storage areas. Some oil observed to have leaked onto the floor and to the drain.

3. No labels on the glue bottles.

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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: During the factory tour, it was noted that there was no MSDS available for the use of chemicals at warehouse and at the point of use.

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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 observed that approximately 10% of sewing machines (especially the old ones) lacked Plexiglas and had no upper/lower pulley guards installed.

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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: [Factory has more than 2,000 workers but there is only 1 nurse available in the factory.](#)

[Law reference: In accordance with Circular 14/BLDTBXH-BYT-TLDDVN dated October 31, 1998](#)

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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: [Most of the canteen workers did not wear face masks while delivering cooked foods.](#)

[Law reference: Decision 41/2005/QD-BYT of The Ministry of Health](#)

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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: [The drinking water testing was conducted once in 2006 instead of every 3 months as required by law.](#)

[Law reference: Decision 4128/QD-BYT of the Ministry of Health.](#)

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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: 1. From working time records review from November 2008 to October 2009, it was noted that a sample of 7 juvenile workers worked 8 hours a day and worked OT up to 3 hours per day.

Law reference: According to the Vietnam Labor Law, Article 122

2. It was noted that 5 randomly selected workers at the sewing line worked from 374.6 to 413.5 hours overtime (in 10 months). Total overtime hours exceeded 300 hours per year as per law.

Law reference: Vietnam Labour Law, Article 69.

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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: [Several workers worked on 1 weekly rest day \(Sunday, November 22, 2009\).](#)

[Law reference: In accordance with Vietnam Labour Law, Article 72.](#)

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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: Current time records of workers are manually recorded by supervisors but not by workers themselves.

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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: [Workers are not free to leave the factory after shift ends; workers have to send the written application for leave to manager for approval when they do not want to work overtime.](#)

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Hours of Work: Overtime/Calculation Over Period Longer Than One Week

HOW.10. Employers are allowed to calculate normal hours of work as an average over a period of longer than one week where local laws, regulations and procedures provide for such a possibility but only when all formal and procedural requirements attached to such calculation (for instance, obtaining official permission from the relevant authorities or limits to the period during which such calculations can be made) are met. The basis for such calculation shall, however, remain at all times the lesser of 48 hours per week or legal limits on hours of work in the country of manufacture or, where such legal limits do not exist, the regular work week in such country. (S)

Noncompliance

Explanation: [It was noted that 30 out of 35 selected workers worked 62 to 69 hours per week in December 2008 and January, April, May, June, July and October of 2009.](#)

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