



2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Mountain Equipment Co-op
(MEC)

COUNTRY: China

FACTORY CODE: 4100152159I

MONITOR: Level Works Ltd.

AUDIT DATE: December 7-8, 2010

PRODUCTS: Knitted Sweaters

PROCESSES: Knitting, Linking, Stitching,
Finishing, Inspection, Packing

NUMBER OF WORKERS: 320

Company Comment: MEC conducted a follow-up audit to the IEM in 2011. No critical and/or egregious concerns were noted during the 2011 audit. MEC has worked with this factory and our vendor to better understand the root causes for each finding, as well as remediation efforts to date. Due to a decrease in customer demand for knit and woven garments, we decided to move our production of woven knitwear to another MEC Factory. MEC had planned to conduct another verification audit in Spring 2013. We would have used this audit to review working hours, overtime payment and social insurance coverage. However, since MEC has no current purchase order at this factory, this audit has been canceled. There are no FLA affiliated brands currently sourcing in this facility and we have no further plans to follow up on critical issues.

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: Insufficient social insurance coverage: only 228 out of 320 employees in the factory had participated in retirement insurance and unemployment insurance, only 110 out of 320 employees had participated in work-related injury insurance, medical insurance and child-bearing insurance.

(Remark: The factory had bought additional commercial accident insurance for 250 employees.)

Source: Documents review and management interview

Legal reference: PRC Labor Law article 72

Plan Of Action: MEC has arranged a re-audit with this vendor on September 26 - 27, 2011 to encourage adherence to local law and provision of appropriate benefits to all employees.

Discuss with buyer to determine the extent of leverage.

Negotiate with the factory for the following:

- a. Feasibility of paying full benefits
- b. Willingness to pay the factory's and workers' parts.

Deadline Date: 12/20/2011



Action Taken: Found during the September 26 audit - Based on a review of proof of social insurance payment from January to September 2011, it was noted that 70 employees recruited after March 2011 were not covered by social insurance because they had not provided an updated name list to the Labour and Social Security Bureaus. The factory bought 5 kinds of social insurance for 228 employees (covering all employees).

A percentage of migrant workers chose not to participate in social insurance for reasons well known to all. The factory will not enforce this, as it does not want to alienate its workforce and incur additional costs. This is a countrywide problem. Factory will discuss this finding internally to determine if it will comply and/or require workers to comply.

Plan Complete: No

Plan Complete Date:

Follow-up Plan of Action: December 21, 2011 - Factory provided social insurance payment records with updated name list for those workers who were hired after March 2011, and an updated name list of those who are not working at the factory anymore.



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: Insufficient overtime wage: workers are paid only 100% of their normal rate as overtime wage for all overtime hours on normal workdays, rest days and official public holidays.

Source: Documents/Payrolls review and Management interview

Legal Reference: PRC Labor Law article 44

Plan Of Action: MEC has arranged a re-audit with this vendor on September 26 - 27, 2011. MEC will explore the issue with the factory and emphasize the legal requirement to pay legal overtime wages.

November 2, 2011: Auditors found from reviewing the broken needle reports that workers had worked on April 1, 2010 (Sunday); however, the working time was not recorded. After discussions with the auditors, the factory agreed to pay workers who worked overtime hours. Factory will ensure that proper records are kept in the future.

Deadline Date: 01/25/2011

Supplier CAP: Factory shall assign a person responsible for ensuring that overtime is voluntary, and that all employees are aware of the policy on voluntary overtime. Factory management shall document the factors that lead to any overtime work. These documents must be kept with all payroll documentation. This documentation must be available for review.

Supplier CAP Date: 02/10/2011



Action Taken: Factory introduced a voluntary overtime policy and all workers signed a voluntary overtime awareness form before recruitment. All workers are aware of the voluntary overtime policy.

Plan Complete: Yes

Plan Complete Date: 09/26/2011

Follow-up Plan of Action: No inconsistencies were found during the September 26 - 27 audit and record review.

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.

Monitor's Note: There are no trade unions, nor any committees representing workers at the factory.

Plan Of Action: Discuss Freedom of Association & Trade Union Act with the factory to encourage workers to initiate a trade union and/or committee that represents the employees at the factory. MEC will encourage factory management to organize training/education with workers regarding Freedom of Association and Trade Unions. Will explore the idea further with the factory when following up with the CAP summary from the STEP audit conducted in September 2011. MEC will follow up on progress at next STEP audit (late 2012). MEC will confirm actions taken through the review of committee's meeting minutes.



Deadline 12/17/2012
Date:

Action
Taken:

Plan No
Complete:

Plan
Complete
Date:

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: The factory rules did not include a review process for disciplinary action.

Source: Documents review and management interview

Legal Reference: FLA Benchmark

Plan Of Action: MEC will discuss with the factory the importance of a proper grievance and disciplinary action procedure. MEC will also discuss the importance of keeping all records for any disciplinary action taken as well as for any grievances claimed. MEC will provide a guidance document outlining a grievance flow chart for factory to implement.

MEC will follow up during next STEP audit in late 2012. Noted as completed by Openview during the 2011 STEP audit.

Deadline 12/17/2012

Date:

Action

Taken:

Plan No

Complete:

Plan

Complete

Date:

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 Company did not provide the factory a Code of Conduct to be posted in the facility.

Source: Factory tour and management interview

Legal Reference: FLA Benchmark

Plan Of Action: MEC is currently in the process of creating a 'worker friendly' version of our Code of Conduct. Once this has been created, MEC will post the Code of Conduct around the factory. MEC will use guidance documents from the FLA Training Portal to develop training for the factory to ensure all workers fully understand the Code of Conduct.

Deadline Date: 12/20/2011

Action Taken:

Plan Complete: No

Plan Complete Date:

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: There is not a confidential noncompliance reporting mechanism in place that allows the factory workers to contact the Company directly.

Source: Factory tour and management interview

Legal Reference: FLA Benchmark

Plan Of Action: MEC is currently in the process of sourcing and implementing a workers' hotline.

Deadline Date: 12/20/2011

Action Taken:

Plan Complete: No

Plan Complete Date:

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: The factory did not have a written health and safety policy in place.

Source: Document review and management interviews

Legal reference: FLA Benchmark

Plan Of Action: MEC will discuss this finding with the supplier to determine if factory management understands the importance of a health and safety policy.

Deadline Date: 03/04/2011

Supplier CAP: Introduce a health and safety policy.

Supplier CAP Date: 12/17/2012

Action Taken: Factory has introduced a health and safety policy. Based on results from MEC's STEP audit conducted on September 26 - 27, it was found that in general Health and Safety violations have been improved upon since the last STEP audit was conducted on October 26 - 27, 2010.

Since 2010, 7 violations were noted. During the 2011 audit, 5 had been improved upon and addressed. Only 1 new health and safety finding was noted during the audit.

Plan Complete: No

**Plan
Complete
Date:**

**Follow-up
Plan of
Action:** MEC will continue to monitor health and safety violations at the next STEP audit in late 2012. The status of the health and safety violations will determine whether or not the policy is working.

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: 4 evacuation doors of workshops on 1/F to 3/F of the production building opened inwards, instead of in the direction of evacuation.

Source: Factory tour

Legal reference: PRC Fire Safety of Building Design Regulation (GB50016-2006) article 7.4.12

**Plan Of
Action:** MEC will explore with the factory the possibility of modifying the doors. MEC will follow up on factory's investigation of the sliding door during the CAP follow up discussion, before the end of December 2011.

**Deadline
Date:** 12/20/2011

**Supplier
CAP:** Comply with local fire codes in terms of the direction of the door openings.



Supplier 12/20/2011
CAP Date:

Action Taken: January 5, 2011 (email response from factory): The evacuation door remains open at all times during working hours and the workers can leave freely without any obstacle. The evacuation door will only close when all the workers get off after their daily work. In addition, our security will patrol all the workshops to make sure no workers are in the factory before the doors are closed.

MEC is okay with the above. MEC has recommended they ensure there is a sign posted on each door, stating that the door is to remain open at all times during the business day.

Plan Complete: No

Plan Complete Date:

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. Around 70% of production workers had worked overtime for 37 to 89 hours a month in the months of December 2009 (non-peak) and July 2010 (peak month).

Source: Documents/attendance records review and management interviews

Legal reference: PRC Labor Law article 41

2. Around 60% of workers had worked for 61 to 68 hours a week in the month of July 2010 (peak month).

Source: Documents/attendance records review and management interview

Legal reference: FLA Benchmark

Plan Of Action: MEC will encourage the factory to comply with legal working hours. This discussion will occur at the September 26 - 27, 2011 re-audit and at the follow up meeting with factory manager within 60 days of the upcoming audit. Based on the results from the September 2011 STEP audit, the auditors did not find any issues of overtime. Early projections from MEC's project managers and buyers help factories in forecasting busy production time in order to decrease overtime hours.

Deadline Date: 12/20/2011

Supplier CAP: Factory to comply with local laws regarding hours of work, public holidays and leave.

Supplier CAP Date:

Action Taken:

Plan Complete: Yes

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: Around 70% of workers were not entitled to 1 day off in every 7-day period. The most consecutive working days without rest were 13 days in the months from July 2010 to August 2010 (peak months).

Source: Documents/attendance records review and management interviews

Legal reference: FLA Benchmark

Plan Of Action: MEC will pressure the factory to comply with the 1 day off in 7 policy. Hours of work, OT pay and social benefits are extremely difficult to resolve, especially if MEC purchases from this supplier are extremely modest. However, negotiations can and will be had with the factory again at the re-audit on September 26 - 27, 2011.

Deadline Date: 12/20/2011

Supplier CAP: Factory will endeavor to reduce OT hours. Factory has an overtime factory manager. This manager will document factors that lead to excessive overtime. This will aid in future discussions and problem solving to reduce the amount of overtime.



Supplier
CAP Date:

Action
Taken:

Plan **No**
Complete:

Plan
Complete
Date:
