



2010

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** Mainland Headwear Holdings  
Limited

**COUNTRY:** China

**FACTORY CODE:** 9000151251I

**MONITOR:** Social Compliance Service Asia  
Ltd.

**AUDIT DATE:** October 26, 2010

**PRODUCTS:** Fabric Headwear

**PROCESSES:** Cutting, Knitting, Linking,  
Blocking, Sewing, Dyeing, Washing,  
Shaping, Packing

**NUMBER OF WORKERS:** 138



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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:** According to factory information, the total workforce for October 2010 was 138 employees; 8 employees were new hires from October 11, 2010 onwards, which was after the social insurance contribution date on the 6th, therefore they were not included in the October contribution. Based on the social insurance payment receipt dated October 6, it was noted that 130 out of 130 employees were provided work related injury insurance, and 98 out of 130 employees were provided with medical insurance, pension insurance, unemployment insurance and maternity insurance. The factory had testimony dated October 11, 2010 from the local social security bureau that stated that the factory provided sufficient contributions according to their requirements.

Sources: payroll records, worker and management interviews, social insurance payment receipts

Legal Reference: Article 73 of PRC Labor Law

**Plan Of Action:** At the time of the audit, the workers hired on October 11 were not registered to the social security administration, since the registrations for October were made before they were hired, on October 6, 2010. By November 2010, the company will do all the social security registrations and proceed with the payment on the 16th of every month, so that any new employee that is hired before the 15th can have the insurance within 1 month upon hiring. The management will conduct awareness raising trainings to make sure workers join all 5 types of social security.

**Deadline Date:** 12/27/2010

**Action Taken:** Update April 2013: Work related injury insurance: 100% Medical insurance, pension insurance, unemployment insurance, maternity insurance: around 80% We have been doing many trainings to encourage the workers to join all 5 types of social insurance and the feedback is positive but we still have not yet met 100%.

**Plan Complete:** No

**Plan  
Complete  
Date:**

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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:** As per the time records provided by the factory, the maximum weekly working hours were 48 hours; no worker had worked in excess of 60 hours in 1 week (with a maximum of 6 continuous days of work) and no Sunday rest day work. Night overtime work was very rare and if needed, it would not be for more than 2 hours until 17:00. The records did not indicate any rest day work (Saturday and Sunday) for production workers who were on the piece rate basis, and there was no night overtime work for the hourly rate employees. However, inconsistencies were noted between the provided time records and the payroll records and other related production records, and worker interviews. It was noted that night overtime work for more than 2 hours was conducted – i.e., until 21:00 hours and Saturday and Sunday rest day overtime, but these hours were not captured on the provided time records. It appears that the provided time and payroll records were unreliable and failed to accurately reflect the workers' actual working hours at the facility. Therefore, the workers' weekly working hours could not be accurately verified during the audit.

Sources: document review, broken needle records, material distributing records, worker interviews, and daily production records

Legal Reference: Article 73 of PRC Labor Law

**Plan Of  
Action:**

- 1) Train all production staff and stress the importance of record keeping, especially keeping accurate dates.
- 2) We will post a calendar and ask all staff to keep their records accurately.
- 3) All overtime applications require written approval from management.
- 4) Every month the attendance records will be verified by the employees and signed by them before the payment date.
- 5) We will also hold training for employees every quarter so they know how to calculate their wages correctly.



**Deadline Date:** 10/30/2010

**Action Taken:** April 18th, 2013 update: The factory has been conducting an internal check against their attendance records and production records every month. The production supervisors and managers were educated over and over about the forbidden OT. Now, all employees need to sign off and obtain approval from management before working OT. During the internal audit, no inconsistencies were identified between the time/production records.

**Plan Complete:** Yes

**Plan Complete Date:** 04/18/2013

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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:** 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 of consulting 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.



Note: there is no trade union, but there is a workers' committee/representative established in the factory. The workers' committee, whose representatives were elected by workers, has been built up in the factory. Meetings were held with minutes kept.

**Plan Of Action:** We have not established a trade union so far since the factory is very small in scale. However, there is a functioning worker representative committee. There are 6 worker representatives who are elected by workers. They will gather every month with the factory management and discuss issues relevant to them, like bonuses and the canteen. The committees will work out a plan before the meeting and negotiate with the supervisor during the meeting. All meeting minutes were kept. The policy of worker representative committees and freedom of association will be explained to the workers in the orientation training. The committee meeting record will be put on the notice board.

**Deadline Date:** 12/01/2010

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

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### **Harassment or Abuse: Discipline/Monetary Fines and Penalties**

H&A.8 Employers shall not use monetary fines and penalties as a means to maintain labor discipline, including for poor performance or for violating company rules, regulations, and policies. (S)

#### **Noncompliance**

**Explanation:** As per the factory rules, it was noted that the factory issues monetary fines as disciplinary actions. In addition to a written warning, 10% of the current monthly wage is deducted if workers are found chatting on qq or playing electronic games while on duty, and/or not executing their job duties, etc.

Sources: factory rules, worker interviews

Legal Reference: In accordance with Article 50 of the Labor Law of the People's Republic of China



**Plan Of Action:** We will revise the disciplinary system and will not fine employees monetarily.

**Deadline Date:** 10/28/2010

**Action Taken:** April 18th, 2013 updates: The monetary fine system was already removed from the handbook and the newest version is posted in the factory. All new employees were educated during the orientation trainings, and there is a training for existing employees every year.

**Plan Complete:** Yes

**Plan Complete Date:** 12/01/2010

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### **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:** The recruitment notice posted in the front main gate revealed that there is discrimination on the basis of gender. Female workers can only work in the sewing department.

Sources: recruitment notice, management interview

Legal Reference: PRC Labor Law Article 12

**Plan Of Action:** The entire HR team will be retrained on the FLA Code of Conduct. We will review and solidify the recruitment terms and procedures. All recruitment ads will be carefully written and reviewed by the HR supervisor.

**Deadline Date:** 10/28/2010

**Action Taken:** All HR employees have been trained on the FLA COC, with a particular focus on discrimination. Newly hired HR employees will be trained regularly.

**Plan Complete:** Yes

**Plan Complete Date:** 11/28/2010

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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) It was noted that 2 out of 3 exits in the canteen area were not equipped with emergency lights.

Source: factory tour

Legal Reference: In accordance with Article 11.3.1 of Code of Design on Building Fire Protection and Prevention (extracted)

2) It was noted that there were at least 2 fire hydrants in the workshop that were blocked by goods.

3) It was found that there were at least 3 fire extinguishers in the warehouse placed on the floor instead of being properly mounted.

Source: factory tour

Legal Reference: In accordance with Article 28 of Fire Prevention Law of the People's Republic of China



**Plan Of Action:** Besides continually training our employees, we will enhance our internal audit. The HR team and security team will conduct internal audits and correct the following issues immediately:

- 1) Assign an inspector to check fire safety conditions regularly.
- 2) Provide training to the workers on the importance of fire safety.

**Deadline Date:** 10/30/2010

**Action Taken:** Installed emergency lights in all 3 exits of the canteen. The fire extinguishers in the warehouse are mounted on the wall. The walkways to the fire hydrants have been cleared. The function of the lights and those types of things are inspected every month and a record is kept.

**Plan Complete:** Yes

**Plan Complete Date:** 12/01/2010

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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 noted that at least 2 workers in the knitting section did not wear the protective earplugs while working in the high sound level environment.

Source: factory tour

Legal Reference: In accordance with Article 37 of Law of the People's Republic of China on Production Safety



**Plan Of Action:** Besides continually training employees, we will also hold the production supervisor responsible for educating and requesting that employees wear PPE when it is required.

**Deadline Date:** 10/30/2010

**Action Taken:** The employees have been trained again about the use of PPE. The production supervisor is assigned to make regular inspections and continuously educate the employees.

**Plan Complete:** Yes

**Plan Complete Date:** 11/30/2010

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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 noted that the sewing machines were not equipped with needle guards.

Source: factory tour

Legal Reference: In accordance with Article 6.1.6 of Code of Design of Manufacturing Equipment Safety and Hygiene

**Plan Of Action:** All sewing machines will be equipped with needle guards.

**Deadline Date:** 10/30/2010

**Action Taken:** All sewing machines are equipped with needle guards. We have held the supervisors responsible for this. During the monthly internal audits, led by the administration department, such issues and other EHS violations are identified, corrected and documented.



**Plan Complete:** Yes

**Plan Complete Date:** 12/01/2010

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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:** Due to inconsistencies observed in the time, payroll, and production records and information gathered through the interviews, it was not possible to verify whether the factory is in compliance with the local laws on working hours.

**Plan Of Action:** The factory will conduct an internal investigation to find the root cause behind the inconsistent records and devise an effective strategy to avoid recurrences.

**Deadline Date:** 10/30/2010

**Action Taken:** The factory has conducted an internal check against their attendance records and production records and found that the cause was that the line supervisors authorized those unauthorized OT hours in order to earn the piece rate bonus. In view of this, we have educated the supervisors and managers about the forbidden OT. Now, all employees need to sign off before the OT is carried out and obtain the approval from management. The administration department leads an internal audit to make sure there is no unauthorized OT. During the annual HQ internal audit, no inconsistencies were identified.

**Plan Complete:** Yes

**Plan Complete Date:** 12/31/2010

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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:** Due to inconsistencies observed in the time, payroll, and production records and information gathered through the interviews, it was not possible to verify whether the workers are entitled to at least 1 day off in every 7-day period.

**Plan Of Action:** The factory will conduct an internal investigation to find the root causes behind the inconsistent records and devise an effective strategy to avoid a recurrence.

**Deadline Date:** 10/30/2010

**Action Taken:** The factory has conducted an internal checkup against their attendance records and production records and found that the cause was that the line supervisors authorized those unauthorized OT hours in order to earn the piece rate bonus. In view of this, we have educated the supervisors and managers about the forbidden OT. Now, all employees need to sign off before OT is carried out and they need to obtain the approval from management. The administration department leads an internal audit to make sure there is no unauthorized OT. During the annual HQ internal audit, no inconsistency was identified.

**Plan Complete:** Yes

**Plan Complete Date:** 12/31/2010

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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:** The auditors observed inconsistencies on the provided time records along with the payroll record and other related production records, and worker interviews. It was noted that night overtime work of more than 2 hours was conducted – i.e., until 21:00 hours. There was also Saturday and Sunday rest day overtime, and these hours were not captured on the provided time records. It appears that the provided time and payroll records were unreliable and failed to accurately reflect the workers' actual working hours at the facility. Therefore, the workers' weekly working hours could not be accurately verified during the audit.

**Plan Of Action:** The factory will conduct an internal investigation to find the root cause behind the inconsistent records and devise an effective strategy to avoid a recurrence.

**Deadline Date:** 10/30/2010

**Action Taken:** The factory has conducted an internal check against their attendance records and production records and found that the cause was that the line supervisors authorized those unauthorized OT hours in order to earn the piece rate and bonus. In view of this, we have educated the supervisors and managers about the forbidden OT. Now, all employees need to sign off before OT is carried out and the employees must obtain approval from management. The administration department leads an internal audit to make sure there is no unauthorized OT. During the annual HQ internal audit, no inconsistency was identified.

**Plan Complete:** Yes

**Plan Complete Date:** 12/31/2010