



2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: SanMar
COUNTRY: Vietnam
FACTORY CODE: 6500841062I
MONITOR: OneStep Vietnam
AUDIT DATE: June 17-18, 2010
PRODUCTS: Jackets, Fashion, Sportswear
PROCESSES: Warehouse, Cutting, Sewing,
Finishing
NUMBER OF WORKERS: 1400



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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: Factory provides many kinds of allowances which are paid to workers through the monthly payroll:

- Seniority: VND 70,000 per month
 - Meals: VND 10,000 per meal
 - Attendance: VND 42,800 per month
 - Female workers who have children under 6 years: VND 10,000 per month
-

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.



Plan Of Action: SanMar acknowledges that labor relations in Vietnam do not meet core ILO standards. We have discussed the matter with factory management and respect that they follow the current local law and industrial practices of Vietnam concerning Freedom of Association and the establishment of employee unions. SanMar remains supportive of legal and program initiatives by global organizations such as the ILO, non-governmental organizations and other multi-stakeholder initiatives working to raise awareness of good labor practices in Vietnam.

Deadline Date: 10/01/2010

Action Taken: A union was established in June 2010 and elected by the workers, without interference by factory management. The union chairman and staff are all non-management representatives and all workers are free to join the union. Approximately 1,400 workers are union members as of September 2010.

Plan Complete: Yes

Plan Complete Date:

Freedom of Association: Right to Collective Bargaining/Validity of Collective Bargaining Agreement

FOA.23 Collective bargaining agreements that have not been negotiated freely, voluntarily and in good faith shall be considered not applicable. Provisions in collective bargaining agreements that contradict national laws, rules and procedures or offer less protection to workers than provisions of the FLA Code shall also be considered not applicable. (S)

Noncompliance

Explanation: It was noted that the signed Collective Bargaining Agreement (CBA) with factory management had been approved on April 29, 2008. Therefore, it expired April 29, 2010, as a signed CBA is legally valid for 2 years.

Law reference: In accordance with Vietnam Law, Article 47, No. 35 L/CTN issued on 2002

Plan Of Action: Factory is requested to sign a new Collective Bargaining Agreement (CBA) and send to local authority for approval.

Deadline Date: 07/14/2010

Action Taken: Factory has signed the Collective Bargaining Agreement. It was approved by local authority on July 14, 2010.

Plan Complete: Yes

Plan Complete Date:

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: From the factory tour of cutting, sewing and packing sections, it was noted that several evacuation passages for workers were obstructed by trolleys and semi-finished products. Especially at the sewing area, auditors found several workers blocked within their workplace.

Law reference: Article No.14, Decree No. 35/2003/ND-CP, dated April 4, 2003: At the finished goods section, it was noted that no emergency light was installed for the staircase stepping up to the finished goods section.

Law reference: Article No.14, Decree No. 35/2003/ND-CP, dated April 4, 2003: From document review, it was noted that the factory has not conducted an annual fire drill.

Law reference: Circular No.04/2004/TT-BLDTBXH, dated March 31, 2004.

Plan Of Action: Factory is requested to:

1. Remove all obstructed materials and communicate the health and safety regulations to the employees to ensure evacuation passages stay clear at all times.
2. Install emergency lights for the staircase stepping up to the finished goods section.
3. Conduct the fire drill at least annually and maintain the fire drill record.

Deadline Date: 10/01/2010

Action Taken:

Plan Complete: No

Plan Complete Date:

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: From the factory tour of the cutting section, it was noted that one first aid kit was blocked by a roll of papers. There was a lack of necessary first aid items in one first aid kit placed in the cotton cutting area. Besides, no first aid procedures were posted at all, e.g., by the first aid kits or elsewhere in the factory.

Law reference: According to Circular 09/2000/BYT of the Ministry of Health, dated April 28, 2000: Providing Guidance on Health Care for Workers in Medium and Small Enterprises, Section III, Point 3.

Plan Of Action: Factory is requested to remove all obstructed materials and ensure all first aid kits are accessible at all times. The in-house nurse shall be assigned to check the stock in the first aid kits and replenish the supplies after usage. First aid procedures shall be established and posted in the factory.

Deadline Date: 10/01/2010

Action Taken:

Plan Complete: No

Plan Complete Date:



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 30% of sewing workers did not wear shoes/slippers while operating the sewing machine, thus not preventing themselves from electric shocks.

Law reference: Section III, Circular 10/1998/TT-BLDTBXH

Plan Of Action: Factory is requested to instruct and monitor the employees, to ensure they wear appropriate shoes/slippers when operating sewing machines. Factory will provide safety training to the employees every 6 months in order to increase the awareness of the risk.

Deadline Date: 10/01/2010

Action Taken:

Plan Complete: No

Plan Complete Date:

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)

Notable Feature

Explanation: During the observation at the waste collection center areas located in the factory, the unused neon lights (hazardous waste) were seen to be well separated in a designated area.

Health and Safety: Ventilation/Electrical/Facility Installation and Maintenance

H&S.17 All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and in such a manner as to prevent or minimize hazardous conditions to workers in the facility. (S)

Noncompliance

Explanation: It was noted that several electrical control panels were missing protective safety guards installed for safety purposes.

Law reference: According to the Government Decision 35/2003/ND-CP, dated April 4, 2003: Providing Guidance on the Vietnam Law of Fire Fighting and Prevention, Article 9, Point 1.

Plan Of Action: Factory is requested to assign maintenance staff to perform appropriate and frequent checking of all electrical control panels.

Deadline Date: 10/01/2010

Action Taken:

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 noted that 20% of overlock sewing machines were missing the Plexiglas guards normally installed. Several single needle sewing machines were also missing pulley guards. Besides, it was found out that some workers did not use the existing Plexiglas guards properly; they did not put the guards in the safety position while operating the sewing machines.

Law reference: In accordance with Vietnam Labor Code, Article No. 98-2.

Plan Of Action: Factory is requested to install Plexiglas guards on overlock sewing machines and pulley guards on single needle sewing machines. Factory shall also assign line supervisors to monitor and ensure that employees are using the protective equipment properly; they are to inform maintenance staff immediately when protective equipment is damaged or missing. Factory will provide safety training to the employees every 6 months in order to increase the awareness of the risk.

Deadline Date: 10/01/2010

Action Taken:

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: It was noted that the daily overtime hours of 20 out of 30 randomly selected workers were from 4.5 - 5.5 hours per day at the sewing, cutting, QC and packing sections from January, February, March, April and May 2010. (One example: A sewing worker worked from 04:30am - 10:00pm on January 18, 2010).

Law Reference: Vietnam Labour Law, Article 69

Plan Of Action: Factory is aware that daily overtime hours exceeded the legal requirement during the peak season. SanMar has requested that factory management either adjusts production plans or takes other measures in order to reduce overtime hours to within legal limits. To address peak production periods next year, the factory is considering its long term capacity plans and is evaluating shift adjustments and headcount, taking into consideration input from SanMar.

Deadline Date: 11/01/2010

Action Taken:

Plan Complete: No

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: It was noted that 20 out of 35 selected workers worked from 1 to 2 Sundays in January, February, March, April and May 2010. (Example: Cutting workers worked consecutively from May 10 - 22, 2010 without a rest day.)

Plan Of Action: Factory is aware that no weekly day off was provided for every seven-day period to certain employees during the peak season. SanMar has requested that factory management adjusts the production plan or takes other measures in order to ensure employees are provided with appropriate and legally mandated rest days. To address peak production periods next year, the factory is considering its long term capacity plans. They are also evaluating shift adjustments and headcount, taking into consideration input from SanMar.

Deadline Date: 11/01/2010

Action Taken:

Plan Complete: No

Plan Complete Date:

Hours of Work: Protected Workers (Women and Young Workers)

HOW.4 The factory shall comply with all applicable laws governing work hours regulating or limiting the nature, frequency and volume of work performed by women or workers under the age of 18. (S)

Noncompliance

Explanation: It was noted that all 5 randomly selected samples of pregnant workers had reached their 7th month of pregnancy, along with female workers who have children under 12 months old, both working 8 hours per day. They also worked OT daily and on Sundays.

Law reference: Article 115, Vietnam Labor Law

It was noted that all 5 randomly selected samples of juvenile workers worked 8 hours per day, as well as regular overtime and on Sundays (rest day).

Law reference: Article 122 of Vietnam Labor Law 35-L/CTN

Plan Of Action: Factory is requested to control the working hours of juvenile employees, pregnant employees who have reached the 7th month of pregnancy and female employees who have children under 12 months old. Factory shall have a list to specify these employees; their labor hours should be monitored to ensure working hours of all employees strictly meet Vietnam Labor Law Articles 115 and 122.

Deadline Date: 10/01/2010

Action Taken:

Plan Complete: No

Plan Complete Date:

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 20 out of 35 selected workers worked 23 to 34 hours overtime per week in January, February, March, April and May 2010. As per management and trade union interviews, excessive overtime occurred due to the fact that these months were during the peak season, and workers wanted overtime to increase income.

Plan Of Action: Factory is aware that weekly overtime hours exceeded the legal requirement during peak season. SanMar has requested that factory management either adjusts the production plan or takes other measures in order to reduce overtime hours to within legal limits. To address peak production periods next year, the factory is considering its long term capacity plans; they are also evaluating shift adjustments and headcount, taking into consideration input from SanMar.

Deadline Date: 11/01/2010

Action Taken:

Plan Complete: No

Plan Complete Date:
