



2010

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** G-III  
**COUNTRY:** China  
**FACTORY CODE:** 6000151262I  
**MONITOR:** Social Compliance Service Asia  
**AUDIT DATE:** December 16, 2010  
**PRODUCTS:** Knitwear  
**PROCESSES:** Cutting, Knitting, Sewing,  
Ironing, Packing  
**NUMBER OF WORKERS:** 166

**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 noncompliances 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.



## CONTENTS:

Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses _____	3
Wages, Benefits and Overtime Compensation: Deposit of Legally Mandated Deductions _____	4
Wages, Benefits and Overtime Compensation: Minimum Wage _____	5
Wages, Benefits and Overtime Compensation: Timely Payment of Wages _____	6
Wages, Benefits and Overtime Compensation: Premium/Overtime Compensation _____	7
Wages, Benefits and Overtime Compensation: Record Maintenance _____	8
Forced Labor: Employment Records _____	9
Freedom of Association: Right to Freely Associate _____	10
Child Labor: Proof of Age Documentation _____	11
Child Labor: Employment of Young Workers _____	12
Health and Safety: Permits and Certificates _____	13
Health and Safety: Evacuation Requirements and Procedure _____	14
Health and Safety: Safety Equipment and First Aid Training _____	15
Health and Safety: Personal Protective Equipment _____	16
Health and Safety: Food Preparation _____	17
Health and Safety: Other - Health and Safety _____	18
Hours of Work: General Compliance Hours of Work _____	19
Hours of Work: Rest Day _____	20
Hours of Work: Other - Hours of Work _____	21



**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:** No legal benefits provided to workers such as paid statutory holiday, paid annual leave, sick leave, etc.

Law Reference: Article 45 & 51 of PRC Labor Law and Article 59 of Opinions on Matters of Carrying out Labor Law of the People’s Republic of China of LMI [1995] No. 309.

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**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:** [Based on provided social insurance contribution receipt from December 2010, only 82 out of 166 employees participated in the 5 categories of social insurance, including pension, accidental, unemployment, medical and maternity insurance.](#)

[Law Reference: Article 73 of PRC Labor Law.](#)

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### **Wages, Benefits and Overtime Compensation: Minimum Wage**

WBOT.2 Employers shall pay workers at least the legal minimum wage or the prevailing industry wage, whichever is higher. (S)

#### **Noncompliance**

**Explanation:** Based on randomly selected worker samples, 4 out of 13 sampled workers were not guaranteed local minimum wage. For example, worker #4xxx was only being paid at RMB 4.23 per hour, which is lower than the local minimum wage of RMB 6.32 per hour in October 2010.

Law Reference: Article 48 of PRC Labor Law.

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**Wages, Benefits and Overtime Compensation: Timely Payment of Wages**

WBOT.4 All wages, including overtime compensation shall be paid within legally defined time limits. When no time limits are defined by law, compensation shall be paid at least once a month. (S)

**Noncompliance**

**Explanation:** Factory paid wages on 10th of month were for the payment period of month before the previous month, i.e., factory paid October 2010 wages on December 10, 2010.

Law Reference: Article 50 of PRC Labor Law.

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**Wages, Benefits and Overtime Compensation: Premium/Overtime Compensation**

WBOT.10 The factory shall comply with all applicable laws, regulations and procedures governing the payment of premium rates for work on holidays, rest days, and overtime. (S)

**Noncompliance**

**Explanation:** Based on randomly selected worker samples, no overtime premium paid to workers for overtime work, they were only paid piece rate wage.

Law Reference: Article 44 of PRC Labor Law.

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**Wages, Benefits and Overtime Compensation: Record Maintenance**

WBOT.21 Employers shall ensure that all legally required payroll documents, journals and reports are available, complete, accurate and up-to-date. (P)

**Noncompliance**

**Explanation:** Factory could not provide payroll records for employees prior to August 2010. Factory also did not maintain wage records for temporary workers.

Law Reference: PRC Provisional Regulations for the Payment of Wages, Article 6.

**Plan Of  
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### **Forced Labor: Employment Records**

F.9 Employers shall maintain sufficient hiring and employment records to demonstrate and verify compliance with this Code provision. (P)

#### **Noncompliance**

**Explanation:** Factory unable to provide all workers' personnel files and labor contracts for review, including those of temporary workers.

**Law Reference:** Article 16 of Labour Law of the People's Republic of China.

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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:** **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 Oct. 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 Dec. 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  
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**Deadline  
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### **Child Labor: Proof of Age Documentation**

CL.3 Employers shall collect and maintain all documentation necessary to confirm and verify date of birth of all workers, such as birth certificates. In addition, the employers shall take reasonable measures to ensure such documentation is complete and accurate. (P)

#### **Noncompliance**

**Explanation:** [Factory could not provide any personnel files or proof of age documents/records for regular workers and temporary workers.](#)

[Law Reference: Article 4 of Regulations of Banning Child Labour Recruitment of PRC.](#)

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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:** At least 1 juvenile worker found working in factory; however, no registration in labor bureau or medical check provided to worker.

Law Reference: Article 6 of Regulations for Special Protection of Underage Workers LMI [1994], No. 498 (extracted) of PRC.

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## Health and Safety: Permits and Certificates

H&S.8 The employer shall at all times be in possession of all legally required and valid permits and certificates related to health and safety issues, such as those related to the purchase and storage of chemicals, fire safety inspections, inspection of machinery, and (chemical) waste disposal. (P)

### Noncompliance

**Explanation:** 1. Factory could not provide fire permit for audit.

2. Factory could not provide canteen hygiene certificate or canteen worker health certificate for review.

3. Factory could not provide first aid personnel certificate for review.

4. Factory could not provide environmental impact report and waste discharge permit for audit.

5. Elevator certificate found expired.

Law References: (1) Article 10 of Fire Prevention Law of the People's Republic of China (extracted), (2) Article 29 of the Law of the PRC on the Food Safety, (3) Article 87 of FPRC factory Safety and Health Rules, (4) Article 16 of Law of the People's Republic of China on Appraising of Environment Impacts, (5) Article 28 of Safety Monitoring Regulation of Special Equipment of PRC.

**Plan Of  
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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:** [No fire drill was conducted during the past 12 months.](#)

[Law Reference: Article 40 of PRC Fire Prevention Regulation for Government Offices, Organizations and Enterprises.](#)

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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:** 1. 3 sets of fire fighting equipment found blocked by other goods.

2. At least 1 first aid kit found with insufficient supplies.

3. No regular inspection conducted for fire fighting equipment, the last inspection date was in March 2009.

Law References: (1) Article 28 of Fire Prevention Law of the People's Republic of China; (2) Article 23 of Law of the People's Republic of China on Prevention and Control of Occupational Diseases; (3) Article 26 of PRC Regulation on Fire Safety Management for State Organs, Organizations, Enterprises and Institutional Organizations.

**Plan Of  
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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:** Most workers operating overlock stitching machines did not use protective needle shield; besides, 3 cutting workers in cutting section did not use metal gloves.

Law Reference: Article 37 of Law of the People's Republic of China on Production Safety.

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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:** [Some raw materials stored in canteen.](#)

[Law Reference: Article 4.1 of Technical Standards on PRC Fire Safety Control of the Place Combined with Habitation, Production, Storage and Business.](#)

**Plan Of  
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**Deadline  
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**Health and Safety: Other - Health and Safety**

Other

**Noncompliance**

**Explanation:** No sprinkler system installed within factory.

Law Reference: Article 8.5.1 of PRC Code of Design on Building Fire Protection and Prevention (Extract).

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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:** Workers' overtime working exceeded 3 hours per day. Weekly working hours exceed 60 hours, up to 83 hours a week. For example, worker #4104 worked overtime till 23:10 with 5 hours night overtime September 6, 2010, and worked 78 hours during week of October 4-10, 2010.

Law reference: Article 41 of PRC Labor Law.

**Plan Of  
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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:** Workers not guaranteed with 7th day rest, i.e., worker #4289 worked 41 consecutive days from August 30 to October 9, 2010.

Law Reference: Article 38 of PRC Labor Law.

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**Hours of Work: Other - Hours of Work**

Other

**Noncompliance**

**Explanation:** As per factory management information and information gathered during audit, factory hires temporary workers. Factory management was not able to provide time records for these workers.

Law Reference: PRC Provisional Regulations for the Payment of Wages, Article 6.

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