



2009

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Top of the World, LLC

COUNTRY: Vietnam

FACTORY CODE: 380084159H

MONITOR: OneStep Viet., Ltd.

AUDIT DATE: August 11 – 12, 2009

PRODUCTS: Hatwear

PROCESSES: Warehouse, Cutting, Sewing,
Embroidery, Packing

NUMBER OF WORKERS: 1094



CONTENTS:

Freedom of Association: Right to Freely Associate _____	3
Miscellaneous: Illegal Subcontracting _____	5
Health and Safety: Health and Safety Management System _____	7
Health and Safety: Evacuation Requirements and Procedure _____	8
Health and Safety: Personal Protective Equipment _____	9
Health and Safety: Chemical Management and Training _____	10
Health and Safety: Q. Ventilation/Electrical/Facility Installation and Maintenance _____	12
Health and Safety: Machinery Maintenance and Worker Training _____	13
Health and Safety: Drinking Water _____	14
Health and Safety: Other - Health and Safety _____	15
Working Hours/Overtime: General Compliance Hours of Work _____	16



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: We recognize that the laws in Vietnam don’t reflect an atmosphere of full compliance with FLA code regarding Freedom Of Association (FOA). However, we control over 85% of this factory’s production and have strongly suggested to the ownership that staff at this facility be able to, and be helped in doing so, form a worker’s group or committee that looks out for their rights as employees. It is our understanding that this atmosphere does exist at [Factory name] and that workers there do have representation on behalf of their rights for communication with factory management. Initial discussion regarding this matter was established many years ago and adherence to this code element is always present in compliance planning opportunities.

Deadline Date: 05/24/2011

Supplier CAP: Trade union is established. See 2007 uploaded documentation called “Trade Union Documents and Collective Bargaining.”

Supplier CAP Date: 05/24/2011



Action Taken: Verification of rights for workers to freely associate at [Factory name] is confirmed still to be working with uploaded bulletin, "List of resolved complaint issues 2010 & 2011."

Example from list of grievance issues from workers in 2010:

Date: May 21, 2010

Method: By hotline with HR department (verbal) and trade union

Complainer: All sewing workers

Issue: Suggest BOD (Board of Directors) keep the application of old policy of productivity bonus.

Solution: 1) Meeting with trade union for final decision. 2) Agreed with worker's suggestion: Apply old policy on productivity bonus (as per daily production target) in May 2010. 3) BOD continues to study and set up productivity bonus with more effectiveness.

Date of Solution Notice: June 7, 2010

Remark: As per grievance process.

Plan Complete: Yes

Plan Complete Date: 05/25/2011

Miscellaneous: Illegal Subcontracting

MISC.1 Illegal Subcontracting

Uncorroborated Evidence of Noncompliance

Explanation: Monitors found that the factory subcontracts its production for some processes such as embroidery and sewing. Management said that this subcontracting is done for some other clients, but that no Top of The World (TOW) production has been subcontracted. However, in reviewing relevant record, it showed quantity of products were subcontracted, but not with style, order or client's name; thus, monitor could not conclude whether TOW products have been subcontracted without notification to them.

Plan Of Action: This matter has been discussed with our factory owner and facility management and we are being reassured of zero production for TOW product by any subcontractor. We are working with factory to implement a more organized recording system for all projects assigned to subcontractors for better record keeping and verification. Ongoing training and more effective communication will be used to follow up with regard to the use of subcontractors.

Initial communication August 20, 2009: Follow up will be done before October 15, 2009 for verification. As we worked with [Factory name] staff implementing our remediation plan, we opted to work with a local firm to help facilitate a more thorough resolution to each audit finding. We chose OneStep Viet., Ltd., to help us identify a course of action that would help us resolve each issue, plus ensure proper policies and procedures are put in place that will help us avoid any future compliance standard failures at this facility. A new policy addressing any subcontracting of workers and potential retrenchment concerns will be implemented upon completion of the evaluation process.

Deadline Date: 11/15/2009

Supplier CAP: [Factory name] agreed to work with TOW and the OneStep staff on the implementation of all corrective actions, as well as to adhere to a suggested training program going forward.

Supplier CAP Date: 11/18/2009



Action Taken: Factory has instituted a new policy on OT and is making strides to alleviate scheduling issues relating to the need to subcontract work to other facilities. The new OT policy is uploaded onto FFC site for review. In addition, factory management and line leaders have developed new practices to train workers and retain skilled workers (using methods such as better bonus policies for daily production goals, better attendance bonus program, increased seniority allowance, increased compensation for job difficulty). Also, more strategic order planning and production demands from TOW product buyer are planned to help alleviate scheduling concerns. TOW production alone never leads to OT, but when combined with other factory business at peak periods, collectively, there tends to be OT issues.

Plan Complete: Yes

Plan Complete Date: 11/18/2009



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: H&S Committee was not effective, as several H&S issues found during factory observation: aisles blocked, fire extinguishers blocked. Factory has weekly inspection; however, HSE Committee did not have checklist, working procedure for HSE Committee or any remediation plan.

According to Circular 14/1998/TT-LDTBXH-BYT dated on October 31, 1998.

Plan Of Action: Initial communication August 20, 2009: Follow up will be done before October 15, 2009 for verification. HSE Committee has been given more tools to use for inspections and safety equipment upkeep. More training will be implemented, as well as more frequent monitoring of the equipment and procedures.

Deadline Date: 11/15/2009

Supplier CAP: HSE has labeled all fire extinguishers, as well as cleared all blocked aisles and hallways of any items that were blocking the safe routes for staff to use.

Supplier CAP Date: 11/18/2009

Action Taken: Removed the obstruction at the locations of fire extinguishers placed at warehouse and sewing areas. Provided specific training to workers working at warehouse and sewing sections regarding fire extinguishers locations. Conducted regular inspections so that necessary action can be made if responsible HSE team identifies any obstructions occurred.

Plan Complete: Yes

Plan Complete Date: 11/18/2009

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. 1 out of 4 exit doors at embroidery section was blocked.

According to Vietnam National Standard No. 7435-1:2004 PCCC item 5.2.

2. Several fire extinguishers in warehouse and sewing areas were blocked by material.

According to Vietnam National Standard No. 3890:84 item 2.1.

3. Inappropriate checking procedure for emergency lights, no record shows battery life of each light; thus, we were unable to verify if length of light and time was sufficient for workers to escape.

According to Vietnam Stand of Construction: 439/BXD-CSXD September 25, 1997 standard construction, Point: 11.6.1.5.

Plan Of Action: Initial communication August 20, 2009: Follow up will be done before October 15, 2009 for verification. OneStep staff and TOW staff helped develop a more effective plan with [Factory name's] HSE Committee on inspection procedures for safety equipment, fire extinguishers and emergency lighting elements. More frequent inspections will be given to each, and factory staff has a more thorough understanding of the battery use necessary to maintain these important tools.

Deadline Date: 11/15/2009

Supplier CAP: More inspection of the HSE Committee on safety tools will be immediately implemented and used going forward.

Supplier CAP Date: 11/18/2009

Action Taken: Since 1 exit door is no longer being used, factory posted “No Exit” sign in English and Vietnamese languages upon exit door to show notice that this door is not used for evacuation. Provided specific training to workers working in embroidery section about this changed evacuation. All material moved that was blocking fire extinguishers. Staff retrained not to block. An emergency preparedness plan has been established and all workers were also trained on procedure of how to handle emergencies if they happen in reality.

Plan Complete: Yes

Plan Complete Date: 11/18/2009

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: Several workers were found working on machines with their bare feet. The workers were allowed to use their own slippers in factory, which has potential risk of electrical shock.

According to Article 95 of the Vietnam Labor Law.

Plan Of Action: Initial communication August 20, 2009: Follow up will be done before October 15, 2009 for verification. OneStep training and evaluation of situation has helped factory management implement written policies regarding safety measures in relation to working with machinery in factory.

Deadline Date: 11/15/2009

Supplier CAP: Factory implemented the new written policy regarding these safety measures and will continue to train staff and monitor adherence to the policies going forward.

Supplier CAP 11/18/2009

Date:

Action Taken: After EHS training conducted by OneStep on November 17, 2009, the responsible H&S Committee immediately provided specific HSE training to supervisor/workers on understanding how to properly and adequately use PPE provided (rubber-soled shoes). Factory will be also conducting the walkthrough survey of each work area to identify sources of hazards including impact, penetration, compression, chemicals, heat, dust, electrical sources, material handling, and light radiation. If any risks are found, factory will have action plans to avoid accidents which may have occurred.

Plan Yes

Complete:

Plan 12/16/2009

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)

Noncompliance

Explanation: Inappropriate secondary container at machine and chemical warehouse which caused oil leakage on floor and drain.

Vietnam National Standard 5507-2002: Chemical Safety.

Plan Of Action: Initial communication August 20, 2009: Follow up will be done before October 15, 2009 for verification. OneStep's evaluation and training exercise has resulted in all chemical storage areas to be updated and all labeling is now accurate and visible/legible in the local language. More training will be implemented by the HSE Committee going forward.

Deadline 11/15/2009
Date:

Supplier All chemicals stored in the facility are now accurately labeled and stored in the required
CAP: manner for safety concerns. HSE Committee will continue to develop training and analysis to ensure further compliance to the labeling and storage of all chemicals used here at [Factory name].

Supplier CAP 11/18/2009
Date:

Action During management discussion and observation, it was noted that factory has
Taken: reorganized the designated chemical warehouse. Secondary container has been replaced with 110% volume of the largest container so that it avoids the oils leaked on floor and drain. Besides, chemical containers/tanks have now been placed on pallets so that workers can easily move when delivering the chemicals. In cases of leaks or spills, workers will immediately clean up. Factory also conducted the specific training to responsible staff working with chemicals so that they can understand how to handle chemicals accordingly.

Plan Yes
Complete:

Plan 12/18/2009
Complete
Date:

Health and Safety: Q. 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: The electric control panels do not have safety cover inside. Several electric connections were not protected.

According to the Government Decision 35/2003/ND-CP dated on April 4, 2003.

Plan Of Action: Initial communication August 20, 2009: Follow up will be done before October 15, 2009 for verification. Electrical maintenance was performed on panels that were in need of repair. All boxes and panels are now covered and workers are protected from unnecessary exposure to wiring and the electrical equipment in the factory.

Deadline Date: 11/15/2009

Supplier CAP: All electrical maintenance was completed as required by local law. No staff exposed to electrical equipment other than maintenance workers who inspect the equipment as needed.

Supplier CAP Date: 11/18/2009

Action Taken: After the EHS training and implementation conducted by OneStep on November 17 and 18, 2009, the responsible H&S Committee immediately installed safety covers inside of all electric control panels and electric connection in the factory. Specific training of electric safety was also provided to responsible staff so that they can be aware of it.

Plan Complete: Yes

Plan Complete Date: 12/16/2009

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: 1. Lack of needle guards on several sewing machines caused at least 5 accidents related to needle guards in 2009.

According to the Vietnam Labor Law, Article 98.

2. Factory does not have lock out and tag out policy and procedures to implement in factory to avoid accidents while performing maintenance work.

According to Vietnam Standards 5507: 2002

Plan Of Action: Initial communication August 20, 2009: Follow up will be done before October 15, 2009 for verification. OneStep's evaluation has led to the implementation of new written policies on the lock out/tag out procedures as well as the safety checks and training for the upkeep of factory machinery. Regular maintenance checks will be planned to ensure proper guards are in place at all times for the machines.

Deadline Date: 11/15/2009

Supplier CAP: The new policies regarding lock out/tag out are posted and have been implemented by the HSE Committee. Safety inspections for the machinery are now regularly performed to ensure that the guards are in place on all of the machines.

Supplier CAP Date: 11/18/2009

Action Taken: After the EHS training and implementation conducted by OneStep on November 17 and 18, 2009, the responsible HSE Committee immediately installed the needle guards for all sewing machines. Mechanic will record on checklist when conducting the regular inspections. The specific training of HSE was also provided to sewing workers regarding safety when operating machines.

Plan Complete: Yes

Plan 12/16/2009

Complete

Date:

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: It was noted that the factory conducts drinking water testing only once in a year instead of every 3 months. The management said that they were not aware of this requirement due to lack of legal update.

According to Decision 4128/QD-BYT of the Ministry of Health.

Plan Of Action: Initial communication August 20, 2009: Follow up will be done before October 15, 2009 for verification. OneStep's team was able to assist factory management in planning for more frequent testing of drinking water at the factory. Now that they understand the required testing frequency, this will be a regularly scheduled event.

Deadline 11/15/2009

Date:

Supplier CAP: Quarterly drinking water tests are now scheduled per the local guidelines.

Supplier CAP 11/18/2009

Date:

Action Taken: After the EHS training and implementation conducted by OneStep on November 17 and 18, 2009, the responsible HSE Committee consequently made testing of drinking water accordingly. Specific training has also been provided to the responsible staff on how to taking care of drinking water for workers in the factory. The correct practice is that drinking water should be conducted with regular test every 3 months of year.

Plan Yes

Complete:

Plan Complete Date: 12/16/2009

Health and Safety: Other - Health and Safety

Other

Noncompliance

Explanation: From management discussion and observation, it was noted that factory does not have the wastewater treatment system in place. Water is directly discharged to public drain. Management said that this factory does not use any hazardous chemicals, thus management did not build the wastewater treatment system.

According to Law on Environmental Protection; Article 82.

Plan Of Action: Initial communication August 20, 2009: Follow up will be done before October 15, 2009 to get a timeline for the work needed to correct this matter. Factory management, TOW staff and OneStep staff evaluated the situation regarding the wastewater drainage and a plan was put in place to construct a new drain to ensure that the facility would meet all local laws regarding this matter.

Deadline Date: 11/15/2009

Supplier CAP: Construction was completed on the drainage system, and all wastewater is adequately removed from the facility, meeting all local guidelines and safety concerns for the workers and the environment.

Supplier CAP Date: 12/15/2009

Action Taken: During the [Factory name] management discussion and observation during November 18, 2009, it was noted that a project has been in the progress to establish the wastewater treatment system in the factory. All kinds of wastewater (excluding hazardous chemical) will be managed and controlled by this wastewater treatment before dismissing it to the public drain. Update: System is complete.

Plan Complete: Yes

Plan Complete Date: 12/16/2009

Working Hours/Overtime: 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. It was noted during random selection of workers' files that they had worked some days in March to June 2009 with their daily overtime ranging from 4 to 5.5 hours. Some workers, especially in the packing section, worked 15 overtime hours per day on some days of May 2009. The main reasons found for excessive overtime were urgent orders and low productivity, which led to some departments, such as packing and embroidery, to have excessive overtime.

According to the Vietnam Labor Law, Article 69.

2. From management discussion and record review, it was noted that some workers had exceeded the annual overtime limit in June 2009. The hours ranged from 300 to 320 hours.

According to the Vietnam Labor Law, Article 69.

3. From time record review from July 2008 to July 2009, it was noted that some workers worked from 66 to 70.5 hours per week including overtime. Some periods in May 2009, workers worked up to 84.5 hours per week, including overtime.

Plan Of Action: Initial communication August 20, 2009: Follow up will be done before October 15, 2009 for verification. During the OneStep analysis and training period, a more thorough and accurate overtime tracking form/system was introduced to factory management. They will be implementing this into the daily/weekly/monthly scheduling going forward to keep better records of hours worked for all workers.

Deadline Date: 11/15/2009



Supplier CAP: The new OT tracking form developed by factory management has been implemented and is a tool that they will utilize immediately for scheduling practices. Line leaders, supervisors and factory management have all been given training on the OT policies and how to use the new form. The new OT policy is outlined on the form uploaded onto the FFC site. We feel that by putting this in place now, they will be able to plan all production schedules more effectively. This should alleviate hourly schedules that resulted in daily overtime resulting in from: 4-5.5 hours/day (item #1), 300-325 annual hours of overtime (item #2), and 66-70.5 hours worked per week (item #3). More effective schedule planning will help alleviate weekly, monthly and annual OT hours at [Factory name].

Supplier CAP Date: 11/18/2009

Action Taken: Factory should improve line balancing to reduce work-in-progress (by developing skills upgrading for workers and improving supervisory skills for supervisors). Determine who will be approving the OT requests as needed, aiming for staff approving to be responsible to top management in case excessive OT occurs. System has been established to meet the OT limits as required by Vietnamese labor law.

Plan Complete: Yes

Plan Complete Date: 12/16/2009
