

2011

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Wincraft
COUNTRY: El Salvador
FACTORY CODE: 840022550J
MONITOR: Grupo de Monitoreo
Independiente de El Salvador (GMIES)
AUDIT DATE: August 10, 2011
PRODUCTS: Towels, Rugs

PROCESSES: Spinning, Weaving, Packing NUMBER OF WORKERS: 528

FLA Comment: This report was submitted with a corresponding corrective action plan and update to the FLA and was reviewed by FLA staff. In an effort to improve the effectiveness of remediation, the FLA has provided feedback and recommendations to the company. Company update in findings WBOT. 5 and 18 is not consistent with the FLA staff recommendations. Therefore, the report is posted in its current state and will be updated once a finalized report has been received.



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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)

Noncompliance

Explanation:

Christmas bonuses of workers who renew their employment agreements annually are being miscalculated. This is based on the auditor's interpretation due to a lack of clear legislation. The factory does not consider seniority when calculating the Christmas bonuses of these employees (around 145 workers according to the factory). By not taking seniority into consideration, employees who have worked more than 3 years at the factory are affected, as the factory does not respect the different categories established in Article 198 of the Code of Labor; subsequently, workers are not paid Christmas Bonuses according to their seniority.

The factory should take it into account that employees are performing permanent tasks, in terms of Article 25 of the Code of Labor; therefore, seniority should be respected, even when employees renew their employment agreements yearly.

Plan Of Action: WinCraft will suggest to the company that they seek input from the Ministry of Labor

for interpretation on this issue.

Deadline

Date:

Supplier CAP: As new policies are set forth, the factory will take the recommendations of the auditor

into account and engage input from the Ministry of Labor if needed to ensure policies

are fair and consistent for all workers.

Supplier CAP

Date:

Action Taken: WinCraft addressed our supplier on this issue. They feel this is an interpretation of the auditor, and they do not feel that their system unfairly treats workers. At this time, they do not intend to change their current policies, but are aware and will be sure to keep clarity in mind as future policies are set, so that the calculation is clear.



Plan Complete:	No
Plan Complete Date:	
Wages, Benefi	ts and Overtime Compensation: Employer Provided Services
meals. Deduction	orkers have a right to use or not to use employer provided services, such as housing or ons for services to workers shall not exceed the cost of the service to the employer. the able to demonstrate the accuracy or reasonableness of these charges. (P)
	Notable Feature
Explanation:	1. Factory provides free transportation to employees who live in other cities. This service covers almost 100% of the workforce.
	2. Factory promoted the creation of 1 clinic in the factory, which belongs to the Salvadorean Social Security Institute; however, the factory pays the doctor's salary.
	3. Employees have access to low cost food thanks to the monetary support of the factory.
Plan Of Action:	
Deadline Date:	
Action Taken:	
Plan Complete	: Yes
Plan Complete Date:	10/25/2011



Wages, Benefits and Overtime Compensation: Accurate Length of Service Calculation

WBOT.18 All workers shall be credited with all time worked for an employer for purposes of calculating length of service to determine the benefits to which workers are entitled. (S)

Noncompliance

Explanation:

Christmas bonuses of workers who renew their employment agreements annually are being miscalculated. This is based on the auditor's interpretation due to a lack of clear legislation. The factory does not consider seniority when calculating the Christmas bonuses of these employees (around 145 workers according to the factory).

By not taking seniority into consideration, employees who have worked more than 3 years at the factory are affected, as the factory does not respect the different categories established in Article 198 of the Code of Labor; subsequently, workers are not paid Christmas Bonuses according to their seniority. The factory should take it into account that employees are performing permanent tasks, in terms of Article 25 of the Code of Labor; therefore, seniority should be respected, even when employees renew their employment agreements yearly.

Plan Of Action:

WinCraft will bring this to the attention of management to address and help to advise a way to more fairly compensate employees with more seniority. WinCraft will suggest to the company that they seek input from the Ministry of Labor for interpretation on this issue.

Deadline

10/25/2011

Date:

Supplier CAP: WinCraft will suggest to the company that they seek input from the Ministry of Labor

for interpretation on this issue.

Supplier CAP

Date:

Action Taken: WinCraft addressed our supplier on this issue. They feel this is an interpretation of the

auditor, and they do not feel that their system unfairly treats workers. At this time, they do not intend to change their current policies, but are aware and will be sure to keep

clarity in mind as future policies are set, so that the calculation is clear.

Plan No

Complete:



Plan
Complete
Date:

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)

Notable Feature

Explanation: Salary system of this factory helps employees to earn more money than the average

worker in this country's textile industry.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: Yes

Plan Complete

10/25/2011

Date:



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)

Notable Feature

Explanation: Salary system of this factory helps employees to earn more money than the average

worker in this country's textile industry.

Plan Of Action:

Deadline Date: 10/14/2011

Action Taken:

Plan Complete: Yes

Plan Complete

11/19/2011

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: Factory disciplinary system does not include a possibility for employees to ask for

someone to review the disciplinary actions imposed on them. The system also does not give workers the ability to appeal and/or question any disciplinary action against them or to have a third party of their choice present when the disciplinary action is being

imposed.



Plan Of Action:

WinCraft will share with the company suggestions to put in an allowance in place for workers to have access to a more open door policy on these dealings to give their workers the fairest option. We will encourage the factory to determine how to better allow their employees access to disciplinary action review with a third party. These policies will more clearly define policy and procedures regarding discipline, and include how escalations would be handled. Policy will also state how investigations are handled and conclusions are reached, and should include the establishment of an appeal process where employees can challenge decisions and disciplinary actions. A clear policy of how the factory investigates and reaches conclusions on those appealed cases should be established. WinCraft will suggest that the company seeks input from the Ministry of Labor for help with the development of this policy.

Deadline

10/20/2011

Date:

Action Taken: This was brought to the factory's attention and they will determine how to better allow

their employees access to disciplinary action review with a third party. These policies will more clearly define policy and procedures regarding discipline and would include how the escalation would be handled. The policy will also state how investigations are

handled and conclusions are reached.

Plan No

Complete:

Plan 11/19/2011

Complete Date:

Code Awareness:

GEN.1 Establish and articulate clear, written workplace standards. Formally convey those standards to Company factories as well as to licensees, contractors and suppliers.

Noncompliance

Explanation: WinCraft has not provided the factory with its code of conduct (COC). FLA COC was also

missing.

Sources: observational tour; worker and management interviews



Plan Of WinCraft had provided the COC in our communication with the factory contacts. We

Action: will provide the copy again, as well as the translation website information and confirm

that it is communicated to the workers. We will get proof of posting within the factory

as it should be.

Deadline 10/14/2011

Date:

Action Taken: WinCraft provided the COC, as well as the translation website. Supplier has confirmed

with photo documentation that the code was updated, and posted in their COC showcase at the facility. These photos have been sent to the FLA for review.

Plan Yes

Complete:

Plan Complete 11/19/2011

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: As the Company has not shared yet its standards with the factory, neither management

nor employees are aware of them.

Plan Of WinCraft will again provide the Code of Conduct, and a write up to expound on the

code of conduct that we share with our employees as part of our annual refresher

training for our Evacuation training.

Deadline 10/14/2011

Date:

Action:



Action Taken: WinCraft provided the Code of Conduct, as well as translation website. Supplier has

confirmed with photo documentation that the code was updated, and posted in their code of conduct showcase at the facility. A photograph of the posted code has been

sent to the FLA for review.

Plan Yes

Complete:

Plan Complete 11/19/2011

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: No evidence that WinCraft has developed a secure communications channel that allows

employees to report workplace noncompliances about the code to the company.

Plan Of WinCraft has established an email address for such correspondence to be sent to

Action: directly to WinCraft if there is concern or a situation about which an employee would

like to voice their concern in a secure manner. We will communicate this to the factory

and ensure it is posted along with the COC in a primary location accessible to all.

Deadline 10/18/2011

Date:

Action Taken: As noted in the COC in the attachments, the information to contact WinCraft directly

has been provided. They can contact WinCraft by email or by toll-free number, as noted

in the COC in Spanish attached, where their inquiries or issues will be handled

promptly.

Plan Yes

Complete:



Plan 11/19/2011

Complete Date: