



2010

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** SanMar Corporation  
**COUNTRY:** China  
**FACTORY CODE:** 6500151060I  
**MONITOR:** Verite China  
**AUDIT DATE:** September 1 – 2, 2010  
**PRODUCTS:** Knitwear, Children's Wear  
**PROCESSES:** Cutting, Knitting, Mending,  
Pressing, Inspection, Packing  
**NUMBER OF WORKERS:** 620



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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:** All employees participated in injury and medical insurances, while only 311 of 752 employees participated in retirement and unemployment insurances. No employee had participated in childbearing insurance. Management reported that retirement and unemployment insurances were not required to cover all employees and that childbearing insurance was not enforced by local bureau. According to national law, all 5 types of social insurance schemes should be provided for all employees of a factory. Factory management showed a written waiver from local social insurance bureau to prove its compliance. Notice issued August 26, 2010 found, indicating factory planned to provide retirement insurance to workers who had worked more than 1 year in factory; factory management confirmed this. Some workers reported they did not want to participate in retirement insurance because they were not from local areas. Once these workers retire, they want to go back to their hometowns; consequently, it is hard for them to transfer retirement insurance between provinces.

Sources: social security receipt; factory tour; worker and management interviews

Legal References: PRC Labor Law Article 72: employing unit and workers must participate in social insurance and pay social insurance premiums in accordance with law; PRC Labor Law Article 73: labor shall enjoy social insurance benefits under the following circumstances: a) retirement, b) illness or injury, c) disability caused by work-related injury or occupational disease, d) unemployment, and e) childbearing.

**Plan Of Action:** SanMar acknowledges that current social security laws in China can be challenging to manage. We do, however, require factory to provide all legally mandated social insurance benefits to all entitled workers within legally defined time periods and encourage factory management to develop and implement a benefit program to meet these requirements. This plan should consider increasing participation rate progressively over time. Factory would increase 10% social insurance coverage per month, including retirement, unemployment and childbearing insurances as required by PRC Labor Law.

**Deadline Date:** 12/31/2011



**Action Taken:** [SanMar follow-up audit, September 2011](#): Factory was progressively increasing participation in social insurance, even though legal waivers from government exist. 60% of employees now participate in work-related injury, retirement, medical and unemployment insurances. No employee is yet participating in childbearing insurance. Factory continues its improvement of benefit programs and has agreed to progressively work towards full participation.

**Plan Complete:** No

**Plan Complete Date:**

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### **Forced/Compulsory 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 adjusted some workers' basic monthly wages from RMB 770 to RMB 920 on May 1, 2010. However, their labor contract terms concerning compensation had not been modified accordingly.

Sources: document review, payroll record review

**Plan Of Action:** Factory is aware of legal minimum wage standards and paid at least minimum wage to employees. Labor contract terms concerning wage increments shall be modified. Modified labor contract shall be signed by employees; a copy of signed contract shall be provided to them. HR department is responsible for keeping updated labor contracts.

**Deadline Date:** 12/31/2010

**Action Taken:** [SanMar follow-up audit, September 2011](#): Labor contracts were modified and signed by workers; signed copies were provided to them. Factory has designated an HR Assistant to ensure contracts are updated and cover all legal requirements. This individual is also now responsible for ensuring any other factory policies or documents are appropriately updated whenever legal requirements are issued or modified.

Plan            Yes  
Complete:

Plan            09/20/2011  
Complete  
Date:

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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 Action:** SanMar acknowledges that the right to organize and bargain collectively in China does not meet core ILO standards. We have discussed the matter with factory management and respect that they follow current local law and industrial practices of China concerning FOA and establishment of employee unions. Factory is encouraged to enhance existing communication channels between workers and management. Training on policies and procedures for FOA shall be provided to all levels of employees, refreshed at least annually and be given during all new employee orientations.

**Deadline Date:** 12/31/2010

**Action Taken:** SanMar follow-up audit, September 2011: Factory continues to meet local employment laws regarding establishment of unions. While no additional unions or any new worker committees have been established, factory has provided training on policies and procedures covering FOA to all workers and directly informed each worker of their right of FOA. We will continue to monitor this situation and to provide support and opportunities for factory management training.

**Plan Complete:** No

**Plan Complete Date:**

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## Miscellaneous: Illegal Subcontracting

MISC.1 Illegal Subcontracting

### Noncompliance

**Explanation:** Factory is using 135 temporary workers; these workers were dispatched by a private contractor who was not qualified by the government. Specifically, factory:

1. Had not signed employment contracts with these workers.
2. Did not keep work hours of these employees. Daily production records showed their work hours violated FLA's Code of Conduct on 1 rest day in every 7 days and on maximum hours of work.
3. Reported they paid processing fee to contractor or its representative first; then, contractor would disburse processing fee to workers. Management did not know how dispatched workers were paid by private contractor and whether payments complied with local labor law.

**Plan Of Action:** Factory is requested to sign labor contracts with dispatched workers and record their attendance. Work hours assigned for these workers shall meet legal requirements. Each pay day, factory shall maintain payrolls and directly pay wages to temporary workers. A monitoring system shall be established to ensure labor conditions are applied, wages are paid, and work hours are assigned to temporary workers in the same manner as for permanent workers.

**Deadline Date:** 12/31/2010

**Action Taken:** SanMar follow-up audit, September 2011: Factory is no longer using temporary workers dispatched by private contractor. In addition to now understanding legal and employment issues concerning these workers, factory management also now understands that total cost of these workers is very high (almost 3 times higher). It has since changed its recruitment and employment policies to stop the use of temporary workers in compliance with the applicable local legal standards.

**Plan Complete:** Yes

**Plan Complete Date:** 09/20/2011

## 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:** There are 2 compressed air tanks in the factory, but factory does not have yearly inspection reports for the safety valves and pressure gauges of these tanks.

Sources: on-site inspection, document review

**Plan Of Action:** Factory is requested to register compressed air tanks at local bureau and carry out the annual inspection for safety valves and pressure gauges.

**Deadline Date:** 03/31/2011

**Action Taken:** [SanMar follow-up audit, September 2011](#): Factory has registered compressed air tanks with local bureau. Factory obtained the appropriate operation certificate in October 2011.

**Plan Complete:** Yes

**Plan Complete Date:** 10/20/2011

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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. Some fire extinguishers had defects, e.g., in the dormitory, 1 fire extinguisher handle was bent over; 1 fire extinguisher was missing lead seal; others had cracked rubber hoses.
  2. In elevator engine rooms, fire extinguishers placed on the ground.
  3. Factory does not install emergency lights in elevator engine and electrical distribution rooms.
  4. Randomly checked 4 emergency lights in canteen and production building, revealing that 2 of them will not turn on when power is cut off.

Source: on-site inspection

**Plan Of  
Action:**

Factory is requested to:

1. Replace defective fire extinguishers with new ones.
2. Hang fire extinguishers on wall.
3. Install emergency lights in elevator engine and electrical distribution rooms.
4. Replace defective emergency lights with new ones. Also, factory shall nominate person to check on all fire fighting equipment (fire extinguishers, fire hydrants, emergency lights, etc.) on a daily basis. Records shall be documented and maintained.

**Deadline  
Date:**

12/31/2010

**Action  
Taken:**

SanMar follow-up audit, September 2011: All fire extinguishers have been well maintained and now have been placed at the proper height per legal requirements. Emergency lights have been installed in elevator engine and electrical distribution rooms; all emergency lights function properly. Factory has designated a safety officer for the monthly inspection of all fire fighting equipment, including emergency lights.

**Plan  
Complete:**

Yes

Plan Complete Date: 09/20/2011

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### 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:** In production building, there are cracked electrical wire cases found on every floor and some electrical wires are exposed to the air.

**Plan Of Action:** Factory requested to repair electrical wire cases to ensure electrical wires are covered properly at all times. Due to risks of electrical shock or fire, factory shall assign inspection of wires and similar fire hazards to an appropriate safety team or inspector.

**Deadline Date:** 12/31/2010

**Action Taken:** SanMar follow-up audit, September 2011: Cracked electrical wire case has been replaced and all electrical wires have been covered properly. Factory has designated electricians to inspect electrical wires and equipment twice a month.

**Plan Complete:** Yes

Plan Complete Date: 09/20/2011

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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:** In sewing workshop, sewing machines had protective devices installed, however:

1. 2 sewing machines did not have protective devices installed. Management reported factory had installed protective devices for all sewing machines; however, workers might have taken them off, as they would have slowed down their production speed.
2. Some workers had raised them up for easy access. Management reported that all protective devices were properly installed, but workers pushed them up to speed up.

**Plan Of Action:** Factory is requested to install protective devices on sewing machines. Factory shall also assign line leaders, maintenance staff and supervisors to monitor and ensure sewing workers are using protective devices properly.

**Deadline Date:** 12/31/2010

**Action Taken:** [SanMar follow-up audit, September 2011](#): Protective devices have been installed for all sewing machines and workers are using protective devices properly. Factory has provided training to educate workers on the use of protective devices. Line leaders, maintenance staff and supervisors have been assigned to monitor workers' use of protective devices.

**Plan Complete:** Yes

**Plan Complete Date:** 10/20/2011

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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:** 1. As normal practice, factory operated 6 days a week. Most workers usually worked 3 OT hours a day on 4 normal work days and 8 OT hours on Saturdays. Sometimes, workers had 4 or 8 OT hours on Sundays. Overall, workers had around 80 OT hours every month. Management and worker interviews confirmed this.
2. Workers worked more than 60 hours a week. Factory reported there was no obvious production peak season. Monitors selected 20 workers from various departments and positions to review their March to July 2010 attendance and payroll records. March: no worker worked more than 60 weekly hours; April: 1 – 2 weeks, 9 of 20 employees worked 64 – 68 hours; May: 1 week, 6 of 20 employees worked 68 hours; June: 1 – 2 weeks, 13 of 20 employees worked 64 – 68 hours; July: 1 – 4 weeks, 19 of 20 employees worked 68 hours a week.
- Sources: payroll review; attendance record review; worker and management interviews
- Legal Reference: PRC Labor Law Article 41: Employing unit may extend work hours due to requirements of its production or business after consultation with trade union and laborers, but extended work daily hours shall generally not exceed 1 hour. If such an extension is called for due to special reasons, extended hours shall not exceed 3 daily hours under the condition that the health of laborers is guaranteed. However, the total extension in a month shall not exceed 36 hours.

**Plan Of Action:** Factory is aware that weekly total work hours and monthly overtime hours exceeded legal requirements. SanMar has requested that factory management review production plan or take other measures in order to reduce hours of work to within legal limits. Overtime Work Application Form shall be filled in by workers in order to ensure overtime work is controlled and monitored.

**Deadline Date:** 03/31/2011

**Action Taken:** [SanMar follow-up audit, September 2011](#): Factory had applied internal system to monitor workers' OT work. Before arranging OT, each worker was requested to fill in an Overtime Work Application Form. Then, HR Department would check form and calculate whether OT hours exceeded internal target. No OT work would be arranged if worker's OT hours exceeded target. Factory set target for no more than 20 weekly OT hours and 80 monthly OT hours before July 2011; they reduced hours to 60 monthly hours after July 2011. Progressively, ultimate target is to meet legal requirements. We will continue to monitor factory to achieve their internal target and will discuss with management to meet legal requirements within year 2012. From attendance record, most workers worked a maximum of 80 monthly OT hours from January to September 2011, which still exceeded internal target, as well as legal requirements.

**Plan Complete:** No

**Plan Complete Date:**

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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:** Factory reported there was no obvious production peak season. As normal practice, factory operated 6 days a week; in some months, workers had OT work on Sundays. Monitors randomly selected workers from various departments and positions to review their attendance and payroll records from March to July 2010. March: no worker worked more than 6 consecutive days; April: 9 of 20 workers worked 7 – 13 consecutive days; May: 6 of 20 workers worked 7 – 13 consecutive days; June: 13 of 20 workers worked 7 – 13 consecutive days; July: 19 of 20 workers worked 7 – 13 consecutive days. Management interviews and worker interviews confirmed this.

Sources: payroll record review; attendance list review; worker and management interviews

**Plan Of Action:** Factory is aware that no weekly day off in every 7-day period was provided. SanMar has requested factory management review production plan or take other measures in order to ensure employees are provided with appropriate and legally mandated rest days. Overtime Work Application Form shall be filled in by workers in order to ensure weekly day off in every 7-day period is controlled and monitored.

**Deadline Date:** 03/31/2011

**Action Taken:** SanMar follow-up audit, September 2011: Factory had applied an internal system to monitor workers' OT. Before arranging OT, each worker was requested to fill in an Overtime Work Application Form. Then, HR Department would check the form and calculate whether OT hours exceeded internal target. No OT work would be arranged if worker's OT hours exceeded target. Factory set target for no more than 20 weekly OT hours and 80 monthly OT hours before July 2011; they reduced hours to 60 monthly OT hours after July 2011. Progressively, ultimate target is to meet legal requirements. From attendance record, workers had not worked more than 6 consecutive work days from January to September 2011 and were entitled at least 1 day off weekly.

**Plan Complete:** Yes

**Plan Complete Date:** 09/20/2011

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