

2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Ocean Sky
COUNTRY: China

FACTORY CODE: 118001512361
MONITOR: Openview Service Limited
AUDIT DATE: November 2 – 3, 2010

PRODUCTS: Garments

PROCESSES: Cutting, Embroidery, Screen Printing, Sewing, Washing, Drying, Ironing,

Inspection, Packing
NUMBER OF WORKERS: 1250

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.



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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: Monitor's Note: Through management and worker interviews, it was noted that there was no trade union, worker committee or other workers' organization in the factory.

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:	
Deadline Date:	
Action Taken:	
Plan Complete:	No



Plan Complete Date:	
Health and S	Safety: Permits and Certificates
certificates re	aployer shall at all times be in possession of all legally required and valid permits and lated to health and safety issues, such as those related to the purchase and storage of e safety inspections, inspection of machinery, and (chemical) waste disposal. (P)
	Noncompliance
Explanation:	Based on observation made during the document review, it was noted that:
	1. Factory could not provide Building Structure Safety Certificates for all buildings for audit team to review.
	2. As per management interview, it was noted that factory did not obtain Environmental Impact Assessment Report and Waste Discharge Permit.
	Legal References: 1. China Construction Law, Article 61; 2. Law of the People's Republic of China on Appraising of Environment Impacts, Article 16 and the China Law on Prevention and Control of Water Pollution (2008), Article 20
Plan Of Action:	
Deadline Date:	
Action Taken:	
Plan Complete:	No
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:	There were no exit signs and emergency lights above 1 out of 2 exits in 2 packing workshops; also, no exit sign above 1 out of 2 exits in boiler room.
	Legal References: Code of Fire Safety on Building Design (GB50016-2006), Articles 11.3.1 and 11.3.4 $$
Plan Of Action:	
Deadline Date:	
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)

	Noncompliance
Explanation:	There was no second container for chemicals stored in the paint mixing room.
	Legal Reference: Regulations on Safety Administration of Hazardous Chemicals, Article 16
Plan Of Action:	
Deadline Date:	
Action Taken:	
Plan Complete:	No
Plan Complete Date:	



Health and Safety: Material Safety Data Sheets/Worker Access and Awareness

H&S.14 Material Safety Data Sheets (MSDS) for all chemicals used in the factory must be available at the usage and storage sites of the chemicals, in the local language and the language(s) spoken by workers, if different from the local language. Workers shall have free access to MSDS. (P)

	Noncompliance
Explanation:	There was no MSDS at the work site for cleaner used in cleaning room and glues used in glue spraying room.
	Legal Reference: Regulations on Safety in Workplaces Where Chemicals Are Used, Article 27
Plan Of Action:	
Deadline Date:	
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:	Safety warnings for 10% of sewing machines were in Japanese and English; 70% of sewing machines had no safety warning. Safety warnings for screen printing machines were all in English. The operation instructions of embroidering machines, mark pressing machines and screen printing machines were all in English, instead of in the Chinese language that workers could understand easily.
	Legal Reference: Law of the People's Republic of China on Work Safety, Article 28
Plan Of Action:	
Deadline Date:	
Action Taken:	
Plan Complete:	No
Plan Complete Date:	



Health and Safety: Medical Facilities

H&S.21 Medical facilities shall be established and maintained in factories as required by applicable laws. Medical staff shall be fully licensed and recognized under applicable local rules and regulations. An appropriate number of medical staff shall be on duty during all working hours, including any type of overtime, as required under local law. An appropriate stock of medical supplies shall be maintained at all times. Medicines of which the expiration date has passed must be replaced immediately and disposed of in a safe manner. (P)

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	Noncompliance
Explanation:	A total of 80 workers were involved in high noise or hazardous chemical handling in the factory; however, factory only provided occupational health examinations for 20 workers.
	Legal References: China Law on Prevention and Control of Occupational Diseases, Article 32; China Labor Law, Article 54
Plan Of Action:	
Deadline Date:	
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:	70% of workers' overtime exceeded limit of the Comprehensive Working Time System in 2010. The system approved by local labor bureau requires that overtime should not be beyond 432 hours from April 2010 to March 2011, but maximum in factory was up to 530 hours from April 2010 to November 2, 2010.
	Legal Reference: Instruction on the Implementation of the China Labor Law, Article 65
Plan Of Action:	
Deadline Date:	
Action Taken:	
Plan Complete:	No
Plan Complete Date:	