



2009

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Kranos Corporation dba Schutt
Sports

COUNTRY: China

FACTORY CODE: 940015189H

MONITOR: Level Works

AUDIT DATE: August 19, 2009

PRODUCTS: Plastic Toys

PROCESSES: Injection Molding, Assembly,
Inspection, Packing

NUMBER OF WORKERS: 14

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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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: 1. In accordance with the PRC Labor Law Article 72, employing unit and workers must participate in social insurance and pay social insurance premiums in accordance with the law; and according to Article 73, labors 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. Therefore, according to this national law, all 5 types of social insurance schemes mentioned above should be provided for all employees of a factory.

2. The last social insurance/security payment was made on July 10, 2009. Only 6 out of 17 employees had participated in injury insurance, disability caused by work-related injury or occupational disease insurance, unemployment insurance and retirement insurance. Moreover, there was no worker who had participated in the childbearing insurance without any written waiver obtained from the local social insurance bureau.

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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: In accordance with the PRC Labor Law Article 44, the overtime payment shall not be lower than 150%, 200% and 300% of employee normal rate for overtime on normal work days, rest days and official public holidays, respectively. Only 100% of normal rate was paid to workers for the first 8 working hours on rest days and public holidays. RMB 3.50 per hour was paid to nightshift workers for the overtime after first 8 working hours each day, and RMB 4.50 per hour was paid to dayshift workers for the overtime after first 8 working hours each day.

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Forced Labor: General Compliance Forced Labor

F.1 Employers shall comply with all local laws, regulations and procedures concerning the prohibition of forced labor. (S)

Noncompliance

Explanation: It was noted that the factory did not provide workers with a copy of the employment contract. In accordance with the PRC Labor Contract Law Article 16, an employment contract shall become effective when the employer and the employee have reached a negotiated consensus thereon and each of them has signed or sealed the text of such contract.

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Forced Labor: Personal Worker Identification and Other Documents

F.15 Workers shall retain possession or control of their passports, identity papers, travel documents or any other personal legal documents. Employers shall not retain any such documents to restrict workers' access to them for any reason whatsoever, including in order to ensure that workers shall remain in employment in the factory. (S) Employers may obtain copies of original documents for record-keeping purposes.

Noncompliance

Explanation: It was noted that there was no copy of identification documents in the personal files. In accordance with the PRC State Council Order No. 364, Regulation on Prohibition of Child Labor (effective from December 1, 2002) Article 4, when recruiting employees, the employing units shall verify the identity cards of applicants, and must not employ those juveniles who have not reached 16 calendar years of age. The employing unit shall appropriately maintain the employees' employment register and materials being verified.

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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.*

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Freedom of Association: Grievance Procedure

FOA.26 Employer shall have in place written grievance procedures that allow first an attempt to settle grievances directly between the worker and the immediate supervisor but that, where this is inappropriate or has failed, it is possible for the worker to have the grievance considered at one or more steps, depending on the nature of the grievance and the structure and size of the enterprise. Employers shall ensure that the grievance procedures and applicable rules are known to workers. (P)

Noncompliance

Explanation: [It was noted that the factory did not have an internal comment or grievance system.](#)

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Harassment or Abuse: Discipline/Progressive Discipline

H&A.2 Employers shall have a written system of progressive discipline (e.g., a system of maintaining discipline through the application of escalating disciplinary action moving, for instance, from verbal warnings to written warnings to suspension and finally to termination). Any exceptions to this system (e.g., immediate termination for gross misconduct, such as theft or assault) shall also be in writing and clearly communicated to workers. (P)

Noncompliance

Explanation: It was noted that the factory did not have a system to ensure the workplace was free from any type of harassment and abuse, due to lacking of relevant policies.

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Harassment or Abuse: Discipline/Monetary Fines and Penalties

H&A.8 Employers shall not use monetary fines and penalties as a means to maintain labor discipline, including for poor performance or for violating company rules, regulations, and policies. (S)

Noncompliance

Explanation: Through review of factory rules and regulations, anyone who took unauthorized leave for 1 day would be deducted 3 days' wages. In accordance with PRC Labor Law Article 50, wages shall be paid monthly to laborers in the form of currency. The wages paid to laborers shall not be deducted or delayed without justification.

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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: [It was noted that the factory did not have a system to verify the ages of its employees.](#)

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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: It was noted that the factory did not have a system to ensure that special protections for young workers are upheld as required by applicable laws.

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Non-Discrimination: Other - Non-Discrimination

Other

Noncompliance

Explanation: It was noted that the factory did not have a non-discrimination policy.

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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: It was noted that company did not provide a code of conduct to the factory.

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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: 1. It was noted that workers were not orally informed of the code or code provisions at the time of induction or on an ongoing basis.

2. It was noted that the company did not send compliance staff or designated service providers to visit and implement the company compliance program in the factory.

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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: 1. It was noted that the company did not provide the confidential noncompliance reporting mechanism which allows factory workers to contact the company directly.

2. It was noted that the company did not provide guidance to the factory on the establishment of an internal grievance procedure.

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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:**
1. It was noted that no emergency evacuation plan was posted in the factory.
 2. It was noted that no fire alarm system was installed in the factory.
 3. 1 out of 2 emergency exits in the injection molding workshop was locked. In accordance with the PRC Fire Service Law Article 14(6), enterprises and business units shall ensure that all evacuation passages and emergency exits are clear and posted with fire safety evacuation signs.
 4. It was noted that no training on evacuation procedures was provided to workers. In accordance with the PRC Fire Prevention Law Article 16.4, the factory shall organize fire drill exercises for employees regularly.

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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. It was noted that no fire extinguisher was equipped in finished production warehouse. In accordance with PRC Fire Service Law Article 14(5), enterprises and business units shall be responsible for the installation of appropriate fire service equipment and facilities, posting the fire safety signs and arranging regular inspections and maintenance to ensure that all equipment and facilities operate properly and are in good condition.
 2. It was noted that 2 fire extinguishers were blocked in the injection molding section. In accordance with the PRC Design Regulations for Fire Extinguisher Installation (GBJ 140-90) Article 5.1.1, fire extinguishers shall be installed in a distinct and easily accessible location, and shall not be hindered.
 3. It was noted that no procedure was posted that deals with first aid.
 4. It was noted that there was no trained medical personnel on site. In accordance with the PRC Factory Safety and Sanitary Regulations Article 87, factories shall educate their workers on the correct use of protection articles. Workers performing dangerous work (e.g., electrical and gas workers) should be taught first aid procedures.

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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:** 1. It was noted that the factory did not post signs or diagrams indicating the need for PPE in the crushing room of the injection molding section.
2. None of the injection molding machine ladders were equipped with handrails.

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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. It was noted that about 50% workers worked overtime for 4 to 5 hours per day, and up to 156.5 hours per month in September 2008. In accordance with the PRC Labor Law, Article 41, the employing unit may extend working hours due to the requirements of its production or business after consultation with the trade union and laborers, but the extended working hours for a day shall generally not exceed 1 hour. If such extension is called for due to special reasons, the extended hours shall not exceed 3 hours a day under the condition that the health of laborers is guaranteed. However, the total extension in a month shall not exceed 36 hours.
2. It was noted that 50% of workers worked 61 to 84 hours per week in the months from July 2008 to December 2008, and from February 2009 to August 2009.

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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: It was noted that 50% of workers worked 30 or 31 days without 1 day off in June 2009 and July 2009. In accordance with the PRC Labor Law Article 38, the employing unit shall guarantee that its staff and workers have at least 1 day off in a week.

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