



2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Fossil
COUNTRY: China
FACTORY CODE: 5900151126I
MONITOR: Openview Source Limited
AUDIT DATE: June 29 – 30, 2010
PRODUCTS: Watches
PROCESSES: Assembly, Packing, Inspection
NUMBER OF WORKERS: 266



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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: According to factory regulations, sick leave would be paid at 60% of normal payment rate. Because some workers' normal payment rate was the minimum wage rate, the payment practice for sick leave might be below the legal requirement, i.e. at least 80% of legal minimum wage.

It violated Article 23 of Employee Wage Payment Ordinance of [City name].

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that the factory amend the existing policies on sick leave and annual leave to provide the minimum wage as required by law. The policy should be posted in an area visible to the workers. HR is responsible for ensuring that workers are compensated according to the amended policies on sick leave and annual leave. Records will be checked monthly.

Deadline Date: 08/16/2010

Supplier CAP: The factory will update the policies to provide correct pay during annual or sick leave.

Supplier CAP Date: 09/07/2010

Action Taken: The factory has replaced the old policy in the employee handbook and provided copies of the policies. Fossil visited the factory on August 23rd to verify that the policies were included in the handbook and that the workers had been informed.

Plan Complete: Yes

Plan Complete Date: 11/01/2010

Wages, Benefits and Overtime Compensation: False Payroll Records

WBOT.19 Employers shall not use hidden or multiple payroll records in order to hide overtime, to falsely demonstrate hourly wages, or for any other fraudulent reason. Payroll records maintained shall be authentic and accurate. (P)

Noncompliance

Explanation: The compliance status of wages and benefits could not be verified based on the requirements of local law due to:

1. The time records were incomplete, and the normal working hours and overtime hours in the payroll records were inaccurate according to the reasons raised in the Hours of Work section;
2. There were about 10 workers' time cards showing that they worked in May 2010, but the factory could not provide the payment records for those workers;
3. It showed in 2 workers' time cards that RMB 126/132 was deducted as meal fee, but there was no deduction of food revealed in workers' payroll records.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that factory management maintain only 1 set of attendance and payroll records and that these be routinely checked for accuracy so that working hours and compensation may be verified.

Deadline Date: 08/16/2010

Supplier CAP: Factory management will look into installing an IC card system to record attendance in order to ensure records are accurate. Currently employees record their time via punch cards, which require manual wages and hours calculations on the part of HR. The new IC card system will automate much of the process and will reduce the likelihood of human error resulting in inconsistent factory records.

Supplier CAP Date: 05/31/2011

Action Taken: The factory has installed an IC card system. Fossil CSR conducted an audit of the factory in April 2011 and verified that the IC card system is in use by the workers.

Plan Complete: Yes

Plan Complete Date: 04/11/2011

Wages, Benefits and Overtime Compensation: Worker Wage Awareness

WBOT.22 Employers shall make every reasonable effort to ensure workers understand the wages, including the calculation of wages, incentives systems, benefits and bonuses they are entitled to in a factory and under applicable laws. To this end, employers shall communicate orally and in writing to all workers all relevant information in the local language or language(s) spoken by the workers, if different from the local language. (P)

Noncompliance

Explanation: Worker interviews revealed that more than 90% of workers interviewed were not aware of factory policies for paid leaves such as annual leave, sick leave, maternity leave, marriage leave and bereavement leave.

It violated the Article 8 of China Employment Contract Law.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that the factory ensure that all workers receive copies of factory policies and training is provided to all workers.

Deadline Date: 08/16/2010

Supplier CAP: Factory management will provide training to all supervisors on factory policies. Supervisors, in turn, will provide the training to the workers.

Supplier CAP Date: 09/07/2010

Action Taken: Factory management has provided copies of the training records. Training on employee benefits, worker committees and the appeals procedure were provided to supervisors and signatures were obtained indicating that the information was communicated to the workers. Fossil visited the factory on August 23rd to verify that the employees received this training.

Plan Complete: Yes

Plan Complete Date: 09/07/2010

Forced 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: Based on review of workers employment files and interview with factory management, it was noted that factory did not keep any employment records for workers resigned or terminated, including hiring records, termination records and labor contracts.

It violated Article 50 of the China Employment Contract Law.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that the factory retain all records for a minimum of 2 years.

Deadline Date: 08/16/2010

Supplier CAP: Employment records for all workers, including those terminated or having resigned, will be kept on site for at least 2 years. Factory management will create a record retention policy.

Supplier CAP Date: 09/17/2010

Action Taken: A copy of the record retention policy has been provided. Fossil visited the factory on August 23rd to verify that the policy is in place.

Plan Complete: Yes

Plan Complete Date: 09/17/2010

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: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that the factory create avenues for the employees to exercise their freedom to associate, such as creating worker committees comprised of democratically elected workers to address issues in the factory.

Deadline Date: 08/16/2010



Supplier CAP: Factory management will encourage the forming of worker committees with worker representation. Guidance on elections will be issued, so that workers are aware of their right to participate in the committees.

Supplier CAP Date: 09/07/2010

Action Taken: The factory has issued the guidance document on worker committees and elections, and has provided copies. Fossil CSR reviewed this document during the visit on August 23rd.

Plan Complete: No

Plan Complete Date:

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: Based on observation made during document review, worker and management interviews, it was noted that there was no written grievance procedure and any complaints record in the factory.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that the factory create a written grievance procedure. All complaints should be recorded.

Deadline Date: 08/16/2010



Supplier CAP: Factory management will create and post a written grievance procedure. Records of complaints will be maintained in the factory.

Supplier CAP Date: 09/07/2010

Action Taken: Factory management has provided a copy of the written procedure as well as photos of its posting. HR has communicated the policy to supervisors to pass on to the workers. Fossil visited the factory on August 23rd to verify that the procedure has been posted.

Plan Complete: Yes

Plan Complete Date: 09/07/2010

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: In review of factory rules and regulations, it was found out that the disciplinary system did not 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 was being imposed.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that factory management amend the disciplinary system to allow workers to appeal any decision and to have a third party present.

Deadline Date: 08/16/2010



Supplier CAP: Factory management will create an appeal procedure allowing workers to appeal any disciplinary action through the factory worker's committee.

Supplier CAP Date: 09/07/2010

Action Taken: Workers have received a copy of the appeal procedure and a copy has been provided. If an employee violates the factory rules, a written or verbal warning will be issued. If the employee feels that the warning is unfair or unreasonable, the employee may contact the worker committee or any member of the committee or may contact the local government hotline which was provided. A full list of committee members has been posted for workers to review. Fossil visited the factory on August 23rd to verify that the procedure had been provided to the workers.

Plan Complete: Yes

Plan Complete Date: 09/07/2010

Harassment or Abuse: Discipline/Worker Awareness and Participation of Workers

H&A.6 Workers must be informed when a disciplinary procedure has been initiated against them. Workers have the right to participate and be heard in any disciplinary procedure against them. Employers shall maintain written records of all disciplinary actions taken. Workers must sign all written records of disciplinary action against them. Such records must be maintained in the worker's personnel file. (P)

Noncompliance

Explanation: Document review and management interviews indicated that no disciplinary record was kept on file since the factory was established.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that the factory maintain a record of all disciplinary actions.

Deadline Date: 08/16/2010

Supplier CAP: All disciplinary records will be maintained for 2 years. This will be outlined in the record retention policy.

Supplier CAP Date: 09/17/2010

Action Taken: A copy of policy has been provided. Fossil visited factory on August 23rd and verified that the disciplinary records will be maintained for 2 years as outlined in the policy.

Plan Complete: Yes

Plan Complete Date: 09/17/2010

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: According to rules posted in assembly workshop on 5th floor, workers would be fined RMB5-10 or more if they did not change shoes when they went in and out of the toilet.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that the factory remove the fine.

Deadline Date: 08/16/2010

Supplier CAP: Factory management will remove the fine and will post a notification to workers that it is no longer in effect.

Supplier CAP Date: 08/05/2010

Action Taken: The fine has been removed. Notification has been posted in an area visible to workers. A copy of the notification has been provided. Fossil visited the factory on August 23rd and reviewed the factory rules to ensure the fine had been removed.

Plan Complete: Yes

Plan Complete Date: 08/05/2010

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: On-site observation, worker and management interviews indicated that there was no Fossil Code of Conduct posted and workers were not orally informed of the code or code provisions at the time of induction and on an ongoing basis.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that Fossil's Code of Conduct be posted in an area visible to workers. Workers should be informed of the code during the hiring process.

Deadline Date: 08/16/2010

Supplier CAP: Factory management will obtain another copy of Fossil's Code of Conduct and will post this in an area visible to workers.

Supplier CAP Date: 07/30/2010



Action Taken: Fossil's Code of Conduct has been posted and photos have been provided. Supervisors were informed of the code of conduct and are responsible for ensuring that the workers are aware of the code and the posting location. Fossil visited the factory on August 23rd to verify that the code of conduct was posted and to discuss with management the importance of providing training on the code.

Plan Complete: Yes

Plan Complete Date: 09/07/2010

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: Document review, worker and management interviews revealed that there was no confidential noncompliance reporting mechanism which allowed factory workers to contact Fossil.

Plan Of Action: Fossil will develop a means of communication between our factories producing items for National Collegiate Athletic Association (NCAA) affiliated schools and Fossil for factory employees through a third party number/email that employees can utilize anonymously if they so choose.

Deadline Date: 12/31/2010

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: On-site observation revealed that:

1. Materials and sundries were stored under stairwells on 1st floor of the production building.

It violated Article 7.4.1 of the Code for Design of Building Fire Protection and Prevention (GB50016-2006).

2. There were no emergency lights and fire exit signs in workplaces below: - Finished products warehouse on 3rd floor; - Accessory warehouse on 4th floor; - Quality Assurance workshop on 4th floor.

It violated Article 11.3.1 of the Code for Design of Building Fire Protection and Prevention (GB50016-2006).

3. There was no emergency light in the exit of incoming material warehouse on 3rd floor.

It also violated Article 11.3.1 of the Code for Design of Building Fire Protection and Prevention (GB50016-2006).

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that the factory clear all materials from under the stairwells and that all exit signs and emergency lighting be installed.

Deadline Date: 08/16/2010

Supplier CAP: Factory management will remove the materials from the stairwell and will install emergency lighting. Supervisors will provide training to the workers on fire safety, including the need to keep exit pathways clear. In addition, factory safety audits will be conducted internally on a regular basis to ensure compliance with safety regulations.

Supplier CAP Date: 09/07/2010

Action Taken: Factory management has provided a copy of the most recent safety audit and photos of the cleared stairwell as well as the installed safety lighting and exit signs. Training has been provided to workers on fire safety. Fossil visited the factory on August 23rd to verify that the fire safety issues had been remediated.

Plan Complete: Yes

Plan Complete Date: 09/07/2010

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: On-site observation found out that 2 fire extinguishers at the entrance on 1st floor were fully blocked by production materials.

It violated the Article 28 of China Fire Prevention Law.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that the production materials be moved to allow access to the fire extinguishers. Regular inspections should be conducted to ensure the areas remain clear.



Deadline Date: 08/16/2010

Supplier CAP: Production materials have been cleared and the factory will conduct regular safety audits to ensure continued compliance. Supervisors will provide training to the workers on fire safety, including the need to keep access to fire extinguishers clear. In addition, factory safety audits will be conducted internally on a regular basis to ensure compliance with safety regulations.

Supplier CAP Date: 09/07/2010

Action Taken: Photos of the cleared fire extinguishers and a copy of the most recent safety audit have been provided. Training has been provided to workers on fire safety. Fossil visited the factory on August 23rd to verify that the fire safety issues had been remediated.

Plan Complete: Yes

Plan Complete Date: 09/07/2010

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: Based on the review of time records from June 2009 to June 2010, and information gathered from workers and management, it was confirmed that about 10% of workers worked more than 60 hours, up to 75 hours per week in May 2010.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that factory management develops a plan to reduce working hours to ensure that employees do not work more than 60 hours per week.

Deadline Date: 08/16/2010



Supplier CAP: Factory management has rearranged production in the factory to ensure that incidents of excessive overtime do not occur. By focusing on purchasing machinery to automate some of the processes in the factory, the workload has been reduced. Since July, workers have not exceeded 60 hours per week. The factory scheduled the excessive overtime in 2010 due to an unusually high number of orders in May. The factory will decrease overtime by hiring additional workers, increasing automation and scheduling production more evenly to avoid peaks like that experience in May. All departments will be required to submit an overtime application form to schedule additional overtime, all of which will be on a voluntary basis. In addition, factory HR will regularly monitor overtime hours to ensure they are within the legal limits.

Supplier CAP Date: 09/07/2010

Action Taken: Time card and payroll records have been provided as evidence that working hours in the factory have been kept under 60 hours per week since July. Fossil CSR reviewed payroll and attendance records during the audit conducted in April 2011. Fossil CSR conducted an audit in April 2011 and found that weekly working hours are kept below 60 and that monthly hours are below 36 hours.

Plan Complete: Yes

Plan Complete Date: 09/07/2010

Hours of Work: Time Recording System

HOW.6 Time worked by all workers, regardless of compensation system, shall be fully documented by time cards or other accurate and reliable recording systems such as electronic swipe cards. Employers are prohibited from maintaining multiple time-keeping systems and/or false records for any fraudulent reason, such as to falsely demonstrate working hours. Time records maintained shall be authentic and accurate. (P)

Noncompliance

Explanation: The working hour records were incomplete and inaccurate due to below findings:

1. Auditors found out that 1 worker was punching many time cards for other workers, and that worker refused to provide all of those cards for auditors to review;
2. 2 sets of time cards for May 2010 were found during the factory tour: Working hours recorded on 1 set of time cards with more overtime hours was inconsistent with the working hours in the payroll records factory provided;
3. Sunday work on May 9 and 30, 2010 were found from the production records, but there was no time record for related workers on those Sundays.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that the factory maintains 1 set of attendance and payroll records and that all employees punch their own time cards to ensure that working hours and compensation are able to be reviewed.

Deadline Date: 08/16/2010

Supplier CAP: Factory management will look into installing an IC card system to more accurately record attendance. Every worker will scan their own card. Factory management will look into installing an IC card system to record attendance in order to ensure records are accurate. Currently employees record their time via punch cards which require manual wages and hours calculations on the part of HR. The new IC card system will automate much of the process and will reduce the likelihood of human error resulting in inconsistent factory records.

Supplier CAP Date: 05/31/2011

Action Taken: The factory has installed an IC card system. Fossil CSR conducted an audit of the factory in April 2011 and has verified that this system is in use by the workers.

Plan Complete: Yes

Plan Complete Date: 04/11/2011

Hours of Work: Annual Leave

HOW.14 Employers shall provide workers with paid annual leave as required under local laws, regulations and procedures. (S)

Noncompliance

Explanation: Based on payroll records and leave records, interview with factory management and workers, it was noted that the factory only provided: (a) 4.5 days paid annual leave for 11 workers working in the factory for more than 1 year, but less than 10 years, and (b) 5 days paid annual leave for 21 workers working in the factory for more than 10 years but less than 20 years.

This violated the local law: 5/10/15 days paid annual leave for workers who have worked for more than 1/10/20 years, respectively. It violated the Article 3 of Regulations on Paid Annual Leave for Employees.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that factory management amend the current annual and sick leave policies to allow workers to have the correct number of paid days off.

Deadline Date: 08/16/2010

Supplier CAP: Factory management will change the annual leave and sick leave policies to be in compliance with the law. The policies will be provided to the workers.

Supplier CAP Date: 09/07/2010

Action Taken: Copies of the updated sick leave and annual leave policies have been provided. Fossil visited the factory on August 23rd to verify the policies had been updated.

Plan Complete: Yes

Plan Complete Date: 09/07/2010

Hours of Work: Sick Leave

HOW.19 Employers shall provide workers with sick leave as required under local laws, regulations and procedures. (S)

Noncompliance

Explanation: According to factory rules, workers who worked in the factory for less than 1 year could only have 15 days of paid sick leave, and others could have 30 days of paid sick leave, which were below the legal requirement: workers shall have paid sick leave of at least 3 months.

It violated the Article 3 of Medical Treatment Period Provision of Corporation Employee Illness or Non Work-Related Injury.

Plan Of Action: Fossil CSR will visit the factory to discuss the issues with factory management. It is recommended that factory management amend the current annual and sick leave policies to allow workers to have the correct number of paid days off.

Deadline Date: 08/16/2010

Supplier CAP: Factory management will change the annual leave and sick leave policies to be in compliance with the law. The policies will be provided to the workers.

Supplier CAP Date: 09/07/2010

Action Taken: Copies of the updated sick leave and annual leave policies have been provided. Fossil visited the factory on August 23rd to verify the policies had been updated.

Plan Complete: Yes



Plan 09/07/2010
Complete
Date:
