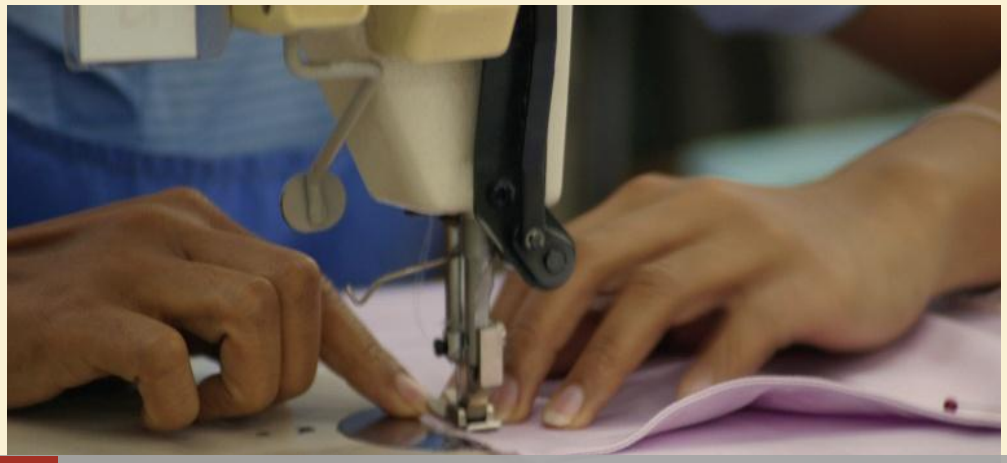

2010

Fair Labor Association
Independent External Monitoring Report

COMPANY: American Eagle Outfitters; Nike, Inc.
COUNTRY: China
FACTORY CODE: 0702151168I
MONITOR: Social Compliance Service Asia
AUDIT DATE: October 27 – 28, 2010
PRODUCTS: Garments
PROCESSES: Cutting, Embroidery, Sewing, Washing, Packaging
NUMBER OF WORKERS: 1571

American Eagle Outfitters Comment: American Eagle Outfitters (AEO) has been sourcing from the reported facility through one of its agents, and for an agreed timeframe, which ended a few months after the IEM was conducted. Notwithstanding the fact that the business was knowingly being completed, AEO carefully examined the findings, visited the facility in December 2010 and put together a plan of action together with the management, as cited in the issued report. Per prior plan, the production finished business with the audited facility in March 2011, therefore allowing adequate time to address initial steps and recommend long-term plans. Since Nike, Inc., has also been sourcing from the audited factory, AEO collaboratively forwarded its remedial plans to them without further commitment. However, if the sourcing decides to reinstate business with the same factory in the future, AEO will re-commit to engage in steps to follow up, improve and verify.

For an explanation on how to read this report, please visit the FLA website here.

FAIR LABOR ASSOCIATION

CONTENTS:

Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses _____ 3
Wages, Benefits and Overtime Compensation: False Payroll Records _____ 5
Wages, Benefits and Overtime Compensation: Record Maintenance_____ 6
Forced Labor: Employment Records _____ 8
Freedom of Association: Right to Freely Associate _____ 9
Child Labor: Proof of Age Documentation _____ 10
Health and Safety: General Compliance Health and Safety _____ 12
Health and Safety: Evacuation Requirements and Procedure _____ 13
Health and Safety: Material Safety Data Sheets/Worker Access and Awareness _____ 15
Health and Safety: Machinery Maintenance and Worker Training _____ 16
Hours of Work: Time Recording System_____ 17

FAIR LABOR ASSOCIATION

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: Inadequate social benefits: Based on the provided social insurance contribution receipt for September 2010, 1074 out of 1648 employees were provided with work-related injury insurance; 603 out of 1648 employees were provided with medical, pension and unemployment insurances; and 16 out of 1648 employees were provided with maternity insurance. Besides, factory had purchased commercial work-related injury and medical insurance for 500 employees for the period of October 20, 2010 until October 21, 2010 (PCC Property and Casualty Company Limited - Policy number 4400900017946)

Law Reference: Article 73 of PRC Labor Law

Plan Of Action: American Eagle Outfitters (AEO) will ensure the following actions are taken by the factory:

Immediate action: Factory will purchase commercial insurance to ensure 100% coverage of work-related injury insurance.

Long-term remedial plan: (1) Factory to let employees know it's their legal obligation to participate in social security insurance during recruitment and the benefit/advantage of joining, (2) Factory set to increase the total social insurance coverage by 5% per year, (3) Factory will review current policy and procedures regarding social insurance coverage on a regular basis to see if any updates are required. Converse plan of 40% coverage on all national requirements and 100% for work-related injury insurance is an immediate action to meet our benchmarks; a step-wise increasing plan must be implemented to achieve 100% coverage by December 31, 2013.

Deadline Date: 12/31/2013

Action Taken:	December 3, 2010: Factory will start to include the benefits/advantages of joining social insurance during recruitment. June 24, 2011 Converse Visit: Per May receipt, 599 out of 904 employees (66%) were provided with social insurance for pension, unemployment and illness; 16 (1.7%) for childbearing insurance; and 100% for work-related insurance. Also, the benchmarks and step-wise plan on all types of social insurance was communicated with factory management: 40% by December 2011; 50% by March 2012; 60% by June 2012; 70% by September 2012; 80% by December 2012; 85% by March 2013; 90% by June 2013; 95% by September 2013 and 100% by December 2013. Factory Director is responsible for this plan, and Converse will follow up on its implementation through on-site visit/audit or quarterly document review.
Plan Complete:	No
Plan Complete Date:	

FAIR LABOR ASSOCIATION

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: Laundry and embroidery department operated 2 shifts: 08:00 – 19:00 and 19:00 – 06:00, which included 1.5 hour overtime and 1.5 hour meal break per shift. They worked 6 days a week, from Monday - Saturday, where Saturday rest day was compensated as overtime work and frequent night overtime work, usually for 1.5 hours, was arranged. It was noted workers' weekly work hours range from 54 – 57 hours and all workers are guaranteed at least 1 rest day off on Sunday. Inconsistencies were noted during detail testing with provided time record, along with payroll and other production-related records (production output, material and trim requisition, delivery records, etc.) These records reflected that workers were working various Sundays in different months- May, June, September and October 2010. (For instance, June 6, 2010 and May 9, 2010.) However, corresponding time and payment records showed workers were not required to work any Sunday. It appeared that time records and payroll were not reliable and failed to accurately reflect workers' actual working hours, wages and benefits at facility. Information gathered from workers' interviews and other sources were actually leading to the same conclusion, as there were apparent discrepancies between information on time and payment records and information obtained during workers' interviews. Therefore, workers' actual work hours, wages and benefits could not be accurately verified.

Law Reference: Article 51 and Article 45,Article 38 of PRC Labor Law

Plan Of Action: AEO reinforced that transparency is one of the most important elements in the relationship between AEO and supplier, and that supplier should understand and cooperate at all times. AEO will ensure the following actions are taken by factory:

Immediate action: Factory will (1) enhance internal communication on work hours system through training and (2) train employees not to keep any "unofficial records" to ensure accuracy of records.

Long-term remediation plan: Provide accurate records for review.

In addition to the above plan, Converse will immediately express to top management the importance of transparency and cooperation for a healthy social compliance system and a healthy business relationship between Converse and the factory. Upon follow-up visit, Converse will ensure that (1) Factory has confidence to keep 100% transparency and provides all real and accurate information for review and (2) Factory has a designated person and system to ensure accuracy of time, payroll, related production records, etc.

FAIR LABOR ASSOCIATION

Deadline Date: 06/30/2011

Action Taken: December 3, 2010: Provide training to employees of all levels by May 31, 2011.

June 24, 2011 Converse Visit: The importance of transparency and cooperation for a healthy social compliance system, as well as a healthy business relationship, has been clearly communicated between PC, business unit and the factory top management. No inconsistency found through cross check among production records, employee interviews and the swiping time records. Per production records, found some workers worked Sundays in May (8, 15, 22) 2011, but they took rest on following Monday (9, 16, 23), and this was consistent with swiping time records.

Plan Complete: Yes

Plan Complete Date: 06/24/2011

Wages, Benefits and Overtime Compensation: Record Maintenance

WBOT.21 Employers shall ensure that all legally required payroll documents, journals and reports are available, complete, accurate and up-to-date. (P)

Noncompliance

Explanation: Factory management could not provide any payroll records for 53 workers found working on sewing line (sewing operators, in-line and end-line checkers, etc.) on the 4th floor of production building B. Factory management reported that these workers were there on trial and the period will not exceed 1 month. Therefore, they only had to keep a name list for these workers and issue them an entry and exit card.

Code Provision Or Practice: Employers shall ensure that all legally required payroll documents, journals and reports are available, complete, accurate and up-to-date.

FAIR LABOR ASSOCIATION

Plan Of Action:	AEO will ensure the following actions are taken by factory: Immediate action: (1) All trial employees' payroll records will be recorded. (2) Factory will establish detailed policy and procedures for trial employees and will provide training to all related parties about the newly established policy/procedure. Long-term remedial plan: Regular internal audit will include trial employees' management going forward. In agreement with the plan laid out above, Converse will assume the remediation and follow up of this matter.
Deadline Date:	06/30/2011
Action Taken:	December 3, 2010: Detailed policy and procedure for trial employees will be available by April 30, 2011. June 24, 2011 Converse Visit: (1) Factory newly set up the hiring policy indicating that the trial period is no more than 7 days for job candidates before making the decision whether or not they will be hired. And, the policy also indicates that the ID cards of job candidates will be checked. (2) Per provided records, noted that there have been 4 job candidates on trial for 1 or 2 days in March and April 2011 before being hired by factory. Factory recorded their ID card numbers and kept the work hours and wage issue records manually with the worker's written confirmation. The wage is in compliance with law. However, their ID card copy wasn't kept in the factory.
Plan Complete:	No
Plan Complete Date:	

FAIR LABOR ASSOCIATION

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: Factory management could not provide any hiring and employment records such as age proof documents, time records, payroll records, personnel files, employment contracts, history, etc., for 53 workers found working on sewing line (sewing operators, in-line and end-line checkers, etc.) on the 4th floor of production building B. Factory management stated that these workers were there on trial and that the period will not exceed 1 month. Therefore, they had only to keep a name list for these workers and to issue them an entry and exit card.

Code Provision Or Practice: Employers shall maintain sufficient hiring and employment records to demonstrate and verify compliance with this code provision.

Plan Of Action: PC will ensure the following actions are taken by factory:

Immediate action: (1) All trial employees' age proof will be kept at the time the trial starts, all payroll and time records will be recorded. (2) Factory will establish detailed policy and procedures for trial employees and provide training to all related parties about the newly established policy/procedure.

Long-term remedial plan: Regular internal audit will include trial employees' management going forward.

Deadline Date: 06/30/2011

Action Taken: December 3, 2010: Detailed policy and procedure for trial employees will be available by April 30, 2011.

June 24, 2011 Converse Visit: (1) Factory newly set up the hiring policy indicating that the trial period is to be no more than 7 days for job candidates before making the decision whether or not to hire. And, the policy also indicates that the ID cards of job candidates will be checked. (2) Per provided records, noted that there have been 4 job candidates on trial for 1 or 2 days in March and April 2011 before being hired by factory. Factory recorded their ID card numbers and kept the work hours and wage issue records manually with the worker's written confirmation. The wage is in compliance with law. However, their ID card copy wasn't kept in the factory.

Plan Complete: No

FAIR LABOR ASSOCIATION

Plan Complete Date:

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.

Monitor's note: There was no union established in the factory.

Plan Of Action: We acknowledge that labor relations in China do not meet core ILO standards due to the maturity level of their industrial relations. We acknowledge a long-term, joint advocacy effort is needed to enable better labor relations in China. Nike has met with a number of global organizations, trade unions, non-governmental organizations and multi-stakeholder initiatives regarding our approach to industrial relations. In 2008, Nike, Inc. began implementing HR management workshops in a number of countries, including China, to raise awareness and good labor practices.

Deadline Date: 12/31/2011

Action Taken:

Plan Complete: No

Plan Complete Date:

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: Factory management could not provide any documents, including age proof documents, for 53 workers found working on sewing line (sewing operators, in-line and end-line checkers, etc.) on the 4th floor of production building B.

Code Provision or Practice: 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.

FAIR LABOR ASSOCIATION

Plan Of Action: AEO will ensure the following actions are taken by factory:

Immediate action: (1) All trial employees' age proof will be kept at the time the trial starts, (2) Factory will establish detailed policy and procedures for trial employees and provide training to all related parties about the newly established policy/ procedure.

Long-term remedial plan: Regular internal audit will include trial employees' management going forward.

In agreement with the plan laid out above, Converse will assume the remediation and follow up of this matter.

Deadline Date: 06/30/2011

Action Taken: December 3, 2010: Detailed policy and procedure for trial employees will be available by April 30, 2011.

June 24, 2011 Converse Visit: (1) Factory newly set up the hiring policy indicating that the trial period is no more than 7 days for job candidates before making the decision whether or not they are hired. And, the policy also indicates that the ID cards of job candidates will be checked for age verification. (2) Per provided records, noted that there have been 4 job candidates on trial for 1 or 2 days in March and April 2011 before being hired by factory. Factory recorded their ID card numbers and kept the work hours and wage issue records manually with the worker's written confirmation. The wage is in compliance with law. However, their ID card copy wasn't kept in the factory.

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

Health and Safety: General Compliance Health and Safety

H&S.1 Employers shall comply with all local laws, regulations and procedures concerning health and safety. (S)

Noncompliance

Explanation: Based on the provided health check records for workers working in laundry department, it was noted that the available records were not the appropriate occupational health checks as per the legal requirement. Besides, it was noted that the factory did not provide regular occupational health checks to employees in water treatment plant, who were in contact with hazardous materials.

Law Reference: In accordance with Article 32 Law of the People's Republic of China (PRC) on the Prevention and Treatment of Occupational Diseases

Plan Of Action: AEO will ensure the following actions are taken by factory:

Immediate action: Identity appropriate health check requirements for washing section and provide health checks to all applicable employees after the completion of the Asia Game.

Long-term remedial plan: (1) Establish internal system to ensure occupational health checks are conducted in a timely manner and (2) conduct internal audits to check on the implementation.

Converse also encourages the factory to: (1) Create personnel files for each operator that is exposed to a hazardous environment and (2) Arrange follow-up exams by the doctor.

Deadline Date: 08/31/2011

Action Taken: December 3, 2011: All applicable employees will have appropriate occupational health checks done by April 30, 2011.

June 24, 2011 Converse Visit: (1) The factory arranged all 20 workers from laundry department, including the 3 workers in the WWTP, for occupational health checks in April 2011, no occupation-related illness was found from the summary reports. (2) The factory is on the way to coordinate with local CDC for re-checking and expected to complete this by the end of September 2011.

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: 1. In raw material warehouse, it was noted that distance between perpendicular to the bottom of lighting and the stored material was less than legal requirement of 0.5 meter.

Law Reference: In accordance with Article 39 of Plan for Warehouse Fire Prevention Safety Management

2. It was noted that 1 out of 2 safety exits in the finished goods warehouse was fully blocked by production material.

Law Reference: In accordance with Article 28 of Fire Prevention Law of the PRC

3. It was noted that 1 out of 2 safety exits in the finished goods warehouse was fully blocked by production material.

Law Reference: In accordance with Article 28 of Fire Prevention Law of the PRC

4. During factory tour, it was noted that 3 designated emergency/safety exits in Block B production building had no emergency lighting.

Law Reference: In accordance with Article 11.3.1 of the code for design of building fire protection and prevention

Plan Of Action:	AEO will ensure the following actions are taken by factory: Immediate action: (1) The distance between perpendicular to the bottom of the lighting and the stored material is kept as 0.5 meter, (2) all exits are free of obstacles and (3) designated emergency exits are equipped with emergency lighting. Long-term remedial plan: (1) Factory must designate a person who is tasked with managing Health, Safety and Environmental risks in the factory, (2) internal audit should verify the implementation of the new policy, identify areas of improvement and CAP follow up. Due to the reported issues being rectified, Converse will follow up and ensure that the new policy is sufficient and has been implemented.
Deadline Date:	06/30/2011
Action Taken:	December 3, 2010: All issues had been rectified. New policy will be established so that section supervisor will be asked to tour around the section along with Health and Safety Officer during random patrol to enhance awareness by April 30, 2011.
Plan Complete:	No
Plan Complete Date:	

FAIR LABOR ASSOCIATION

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: It was noted that there was no MSDS available for the chemicals in use (H2SO4, Potassium Dichromate, Silver Sulfate, etc.) at the treatment plant laboratory.

Law Reference: In accordance with Article 27 of the Regulation For Chemical Usage Safety in Work Place

Plan Of Action: AEO will ensure the following actions are taken by factory:

Immediate action: All missing MSDS now made available at the laboratory.

Long-term remedial plan: (1) Training will be conducted to employees who work in the laboratory and (2) internal audit should verify the implementation of the new policy, identify areas of improvement and CAP follow up.

In addition to the above plan, Converse will ensure that chemical hazards communication is established, maintained and implemented for all the workers, including: (1) MSDS updated and accurate, (2) Labels on containers updated and accurate, and (3) training provided for the workers.

Deadline Date: 06/30/2011

Action Taken: December 3, 2010: All identified issues have been rectified. Training will be conducted for employees who work in the laboratory; regular internal audit will include this aspect going forward and will be done by April 15, 2011.

June 24, 2011 Converse Visit: Observed that proper MSDS have been provided for all chemicals and were checked for accuracy. The labels on containers are accurate. The interviewed workers were found to be aware of how to read MSDS, chemical labels and how to protect themselves and respond to an emergency.

Plan Complete: Yes

Plan Complete Date: 06/24/2011

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: It was noted that there were 4 sewing machines not equipped with needle guards; 2 out of 10 bartack machines not equipped with protective eye shields; and 3 snap button machines not equipped with safety bars in sewing workshop D.

Law Reference: In accordance with Article 6.1.6 of Code of Design of Manufacturing Equipment Safety and Hygiene

Plan Of Action: AEO will ensure the following actions are taken by factory:

Immediate action: All removed safety devices re-installed to the machines.

Long-term remedial plan: (1) Provide refreshment to all line supervisors, (2) new responsibility will be introduced in order to make sure employees do not remove the safety devices at their line, (3) internal audit should verify the implementation of the new policy, identify areas of improvement and CAP follow up.

In agreement with the plan laid out above, Converse will assume the remediation and follow up of this matter.

Deadline Date: 06/30/2011

Action Taken: December 3, 2010: All identified issues have been rectified. Training will be conducted to employees and regular internal audit will include this aspect going forward and will be done by April 15, 2011.

June 24, 2011 Converse Visit: All the sewing machines, including bartack, snap and button pressing machines, are equipped with machine guarding. Visit found that workers use the machine guarding properly, and were interviewed to determine how they respond to machine guarding problems when they occur.

Plan Complete: Yes

FAIR LABOR ASSOCIATION

Plan Complete Date: 06/24/2011

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: No time records were provided for 53 workers found working on sewing line (sewing operators, in-line and end-line checkers, etc.) on the 4th floor of production building B. Even though the production records reflected that workers were working on various Sundays in different months, such as May, June, September, and October 2010, (for instance, June 6 and May 9, 2010) corresponding time records did not indicate any entrances on these dates.

Law Reference: In accordance with Article 10 of the Law of the PRC on Employment Contract

Plan Of Action: AEO will ensure the following actions are taken by factory:

Immediate action: (1) All trial employees' time records will be recorded. (2) Factory will establish detailed policy and procedures for trial employees and will provide training to all related parties about the newly established policy/procedure.

Long-term remedial plan: Regular internal audit will include trial employees' management going forward.

Along with the above plan, Converse will ensure that: (1) Factory sets an effective system to record all working hours for all employees, including trial employees, in the same timekeeping system; (2) factory must train employees and managerial supervisors on the importance of accuracy in the records and to not use any "unofficial/multiple/hidden records" for working hours, payment and benefits.

Deadline Date: 06/30/2011

Action Taken:	December 3, 2010: Detailed policy and procedure for trial employees will be available by April 30, 2011. June 24, 2011 Converse Visit: (1) Factory newly set up the hiring policy indicating that the trial period is no more than 7 days for job candidates before making the decision whether or not they are hired. And, the policy also indicates that ID cards of job candidates will be checked for age verification. (2) Per the provided records, noted that there are 4 job candidates on trial for 1 or 2 days in March and April 2011 before being hired by factory. Factory recorded their ID card numbers and kept the work hours and wage issue records manually with the worker's written confirmation. The wage is in compliance with law. However, their ID card copy wasn't kept at the factory. (3) No inconsistency found through cross check among production records, employee interviews and the swiping time records. Per production records, found some workers worked Sundays in May 2011 (8, 15, 22), but they took rest on the following Monday (9, 16, 23); this is consistent with swiping time records.
Plan Complete:	No
Plan Complete Date:	