

FLA Audit Profile	
Country	China
Factory name	02001535C
IEM	SGS
Date of audit	July 19 - 20, 2004
Days in the facility	2
PC(s)	Eddie Bauer
Number of workers	900
Product(s)	Sweaters
Production processes	Linking, Sewing, Washing, Pressing, Packing

			Findings			Remediation			
FLA Code/Compliance Issue	Country Law/Legal Reference	FLA Benchmark	Monitor's Findings	Documentation	Best Practice	PC Remediation Plan	Target Completion Date	Factory Response (Optional)	Company Follow Up (October 18, 2004; Unannounced Visit)
1. Code Awareness									
Worker/Management Awareness of Code		FLA Principle of Monitoring, Obligation of Companies: 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.	The factory did not post the codes in a prominent place; all of the codes kept in the front of office only. No company Confidential Noncompliance Reporting Mechanism in place, it violated the code of FLA.			The Eddie Bauer Code of Conduct should be posted in a prominent place accessible to all workers. Ensure that workers are informed about their rights under the code.	9/20/2004		The code is now posted at the main entrance of the factory. Workers have been given an employee handbook describing the factory's policies and procedures relevant to the Code.
2. Forced Labor									
There will not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise.									
Confiscated Original Documentation	Clause 24 of The Implementation Provisions on China Labor Law: No any deposit is allowed.	Workers will retain possession or control of their passports, identity papers, travel documents or any other personal legal documents. Employers will not retain them to restrict workers' access to their personal identification documents, or to ensure that workers will remain in employment in the factory. Employers may obtain copies of original documents for record keeping purposes.	The factory held the new hires original ID cards about 10 days, it violated clause 24 of The Implementation Provisions on China Labor Law.	1) According to interview with new hires, factory has held their original ID cards about 10 days; 2) Factory management said they have to use the original ID cards to obtain the temporal resident permit for workers from local government. We contacted local government via phone and confirmed that original ID cards are not required, copies of ID are ok.		Workers' personal documents are to be in the possession or control of workers themselves, per the code of conduct and local labor law. Factory should cease the practice of retaining workers' original ID cards.	Immediate		Factory has agreed to return ID cards to workers within 2 days, in order to process the workers' temporary resident card applications.
			No written policy on Forced Labor, and no written procedures on hire, discipline, grievance and terminations.			Factory should maintain written policies and procedures on all elements of the code of conduct (i.e., forced labor; child labor; harassment or abuse; discrimination; freedom of association; health and safety; wages and benefits; hours of work; overtime compensations). These policies and procedures should be made available and communicated to all workers.	9/20/2004		Workers were issued an employee handbook containing the factory's policies and procedures.
3. Child Labor									
No person will be employed at an age younger than 15 (or 14 where the law of the country of manufacture allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.									
4. Harassment or Abuse									
Every employee will be treated with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment of abuse.									
Monetary Fines and Penalties		Employers will not use monetary fines and penalties for poor performance.	Based on the interview with workers, there are some colleagues who have been fined RMB 30 due to breaking factory rules. It was not verified during this audit.			Factory must discontinue the practice of using monetary fines as a form of discipline. Factory should adopt a progressive disciplinary policy and procedures (e.g., verbal and written warnings; suspension; termination). The factory's policies and procedures regarding discipline should be written and communicated to workers.			Workers were issued an employee handbook containing the factory's policies and procedures regarding discipline, harassment and abuse.
5. Nondiscrimination									

			Findings			Remediation			
FLA Code/Compliance Issue	Country Law/Legal Reference	FLA Benchmark	Monitor's Findings	Documentation	Best Practice	PC Remediation Plan	Target Completion Date	Factory Response (Optional)	Company Follow Up (October 18, 2004; Unannounced Visit)
No person will be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.									
Disciplinary Practices		Employers will utilize consistent written disciplinary practices that are applied fairly among all workers.	No written policy on Nondiscrimination and no written procedures on hire, discipline, grievance and termination.			Factory should maintain written policies and procedures on all elements of the code of conduct (i.e., forced labor; child labor; harassment or abuse; discrimination; freedom of association; health and safety; wages and benefits; hours of work; overtime compensations). These policies and procedures should be made available and communicated to all workers.			Workers were issued an employee handbook containing the factory's non-discrimination policy and procedure.

			Findings			Remediation			
FLA Code/Compliance Issue	Country Law/Legal Reference	FLA Benchmark	Monitor's Findings	Documentation	Best Practice	PC Remediation Plan	Target Completion Date	Factory Response (Optional)	Company Follow Up (October 18, 2004; Unannounced Visit)
6. Health and Safety									
Employers will provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities.									
Fire Safety Health and Safety Legal Compliance	Clause 61 of China Construction Law, all the completed buildings shall have construction safety certificates before being used.	Employer will comply with applicable health and safety laws and regulations. In any case where laws and code of conduct are contradictory, the higher standards will apply. The factory will possess all legally required permits.	The factory did not provide the construction safety certificate for manufacturing and dormitory buildings.			Factory to obtain the necessary certificates for production buildings and dormitories, as per China Construction Law Article 51.	9/20/2004		All required certifications were posted in the proper place.
Document Maintenance/ Accessibility	Clause 12 of Safe Use of Chemicals at Workplace Provisions, MSDS shall be provided to workers who are in contact with chemicals.	All documents required to be available to workers and management by applicable laws (such as policies, MSDS, etc.) shall be made available in the prescribed manner and in the local language or language spoken by majority of the workers if different from the local language.	The factory did not keep MSDS for the chemical cleaning materials, and did not provide chemical safety training for involved workers or post MSDS in the related workplace.			As per the legal regulation on Safe Use of Chemicals and Workplace Clause 12, factory should maintain MSDS in the local language. Applicable workers should be provided training in MSDS and the safe handling and storage of chemicals and hazardous substances.	9/20/2004		MSDS is posted in the language of workers. An individual has been designated for the training and maintenance of health and safety issues at the factory.
PPE	Clause 54 of China Labor Law requiring that the employer shall provide suitable PPE to workers.	Workers shall wear appropriate protective equipment (such as gloves, eye protection, hearing protection, respiratory protection, etc.) to prevent unsafe exposure (such as inhalation or contact with solvent vapors, noise, dust, etc.) to hazardous elements including medical waste.	The factory did not provide PPE (i.e., gas masks) for workers performing the chemical cleaning process.			Workers must be provided with the appropriate Personal Protective Equipment (PPE) relevant to the performance of their job duties, and should be trained in PPE use and maintenance.	9/20/2004		Masks and PPE were observed to be worn by workers at the time of the visit. An individual has been designated for the training and maintenance of health and safety issues at the factory.
Ventilation/Electrical/ Facility Maintenance	Clause 38 of warehouse fire safety management code, fire proof lamps shall be used in warehouse.	All ventilation, plumbing, electrical, and lighting services shall be provided and maintained to conform to applicable laws and prevent hazardous conditions to employees in the facility.	The factory did not install fire-proof lamps in the material and finished goods storage areas to ensure fire safety.			Per the legal regulation Fire Safety Management Code Clause 38, fire-proof lamps should be installed in the warehouse.	9/20/2004		Fire-proof lamps were installed in the appropriate areas.
Evacuation Procedure/Safety Training		All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, unblocked aisles/exits, employee education, evacuation procedures, etc.) shall be complied with and workers shall be trained in proper safety, first aid, and evacuation procedures.	No formal and documented policies and procedures regarding of health and safety were established; no safety training provided for workers regularly.			Factory should provide regular health and safety education and training for workers. Topics to be covered in the training include emergency procedures, first aid, identifying and preventing hazards, and any other health and safety policies and procedures that apply to the worker.	9/20/2004		Factory has included safety training information in the employee handbook provided to workers. While the factory does not have a health and safety committee, an individual has been designated for the training and maintenance of health and safety issues at the factory.
7. Freedom of Association and Collective Bargaining									
Employers will recognize and respect the right of employees to freedom of association and collective bargaining									
		FLA Comment: <i>The Chinese constitution guarantees Freedom of Association; 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 freedom of association, 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. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations mechanisms.</i>				Factory management shall respect the right of workers to form or join organizations of their own choosing, and shall not interfere in any way with the ability of workers to exercise their right to freedom of association or collective bargaining.			The factory's policy on freedom of association was communicated to workers in the employee handbook.

			Findings			Remediation			
FLA Code/Compliance Issue	Country Law/Legal Reference	FLA Benchmark	Monitor's Findings	Documentation	Best Practice	PC Remediation Plan	Target Completion Date	Factory Response (Optional)	Company Follow Up (October 18, 2004; Unannounced Visit)
		<p><i>The Amended Trade Union Act of October 2001 does stipulate 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. It also grants the trade union an enhanced role in dispute resolution. In December 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.</i></p>							

			Findings			Remediation			
FLA Code/Compliance Issue	Country Law/Legal Reference	FLA Benchmark	Monitor's Findings	Documentation	Best Practice	PC Remediation Plan	Target Completion Date	Factory Response (Optional)	Company Follow Up (October 18, 2004; Unannounced Visit)
8. Wages and Benefits									
Employers recognize that wages are essential to meeting employees' basic needs. Employers will pay employees, as a base, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and will provide legally mandated benefits.									
Minimum Wage	Clause 48 of China Labor Law: The workers' wages should not be lower than the legal minimum wage standards.	Employers will pay workers the legal minimum wage or the prevailing industry wage, whichever is higher.	New hires' wages lower than the legal minimum wage standards identified during the audit. It violated clause 48 of China Labor Law; No evidence indicated that other workers' (including hourly rate and piece rate workers) wages are in line with the legal minimum wage standards due to double records identified during the audit.	1) According to new hires register list, all hourly rate new hires wages are RMB 13-15 per day, less than the legal minimum wage standards: RMB 21.5 per day; 2) According to interview with new hires, all confirmed that their wages are RMB 13 -15 per day; 3) According to on-site observation, double records were identified: 1 workers' OT time record on July 2004 was found, it indicated tha they worked overtime 5 hours each night from July 1 - 16, and not 1 day off. But, the factory provided their electronic time records indicating they had no OT on Sundays in July, and only worked OT 2 hours each night. 4) Based on on-site production records, found that some workers worked on Sundays in May 2004, but their electronic time records and payrolls indicated that they had not worked overtime on Sundays in May 2004; 5) Based on interviews with workers, some workers' wages from May 2004 are inconsistent with the payrolls.		Factory must guarantee the payment of at least minimum wage for all workers, per article 48 of China Labor Law. Factory must cease the practice of manipulating records immediately. Wage and hour records must be accurately maintained and made available for auditors to review, upon request.	Immediate		Payment of at least minimum wage to all workers was verified based on a review of August payroll. No indication of double books was observed at this time.
Legal Benefits	Clause 72 of China Labor Law: All employers and employees should attend the social insurance.	Employers will provide all legally mandated benefits to all eligible workers.	The factory provided injury insurance for all workers, but only provided retirement, medical and unemployment insurance for about 50% of workers, not for all workers, it violated clause 72 of China Labor Law.	The factory has obtained written approval from local government for the social insurance.		Social benefits are to be provided to 100% of the workforce in accordance with China Labor Law.	9/20/2004		Written approval from the local labor department indicates compliance with this provision.
Legal Compliance for Holiday/Leave	Clause 12 of Temporary Provisions on Wage Payment: work stoppage payment should be provided for the workers.	Workers will be paid for holidays and leave as required by law.	No payment provided for the workers when there is work stoppage.	No payment provided for the workers' work stoppage was identified during audit, it violated clause 12 of Temporary Provisions on Wage Payment.	1) According to interview with workers, no payment provided for work stoppage; 2) According to interview with management, it was confirmed that no payment provided for the workers' work stoppage. 3) No written policy on work stoppage.	Wages are to be paid to workers during a temporary work stoppage or downtime, in accordance with article 12 of China Labor Law and local regulations.	Immediate		No policy is in place yet.
9. Hours of Work									
Except in extraordinary business circumstances, employees will (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country will not limit the hours of work, the regular work week in such country plus 12 hours overtime; and (ii) be entitled to at least one day off in every seven day period.									
Overtime Limitations	Clause 38 of China Labor Law: workers should be allocated at least 1 day off in every 7; Clause 41 of China Labor Law: overtime work hours should not exceed 3 hours a day and 36 hours a month.	Except in extraordinary business circumstances, employees will (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country will not limit the hours of work, the regular work week in such country plus 12 hours overtime; and (ii) be entitled to at least one day off in every seven day period. An extraordinary business circumstance is a temporary period of extra work that could not have been anticipated or alleviated by other reasonable efforts.	Double records found during the audit. Based on punch time card of OT hours, workers have worked overtime an average of 5 hours a day, and about 180 hours a month, it violated clause 41 of China Labor Law. Based on OT punch time cards and some production records, no 1 day off in every 7 found, it violated clause 38 of China Labor Law.	1) According to on-site observation, double records found: 1 worker's punch time cards of OT found, it indicated that they had worked overtime 5 hours a day and no 1 day off in every 7. 2) According to interview with workers, punch time cards to record OT hours was confirmed; 3) According to on-site observation, the production records indicated that some workers have worked overtime on Sundays in May 2004. 4) According to on-site observation, packing line recorded the OT hours on calendar, indicating that OT average is 5 hours a day, and no 1 day off in every 7.		Factory should ensure a reduction in work hours to no more than the legal maximum, per Articles 38 and 41 of China Labor Law. Workers should be provided at least 1 day of rest every 7 days, as per the code and local labor law.	9/20/2004		Time records from August and September disclose a 60-hour work week. No indication of double books was observed at this time.

		Findings				Remediation			
FLA Code/Compliance Issue	Country Law/Legal Reference	FLA Benchmark	Monitor's Findings	Documentation	Best Practice	PC Remediation Plan	Target Completion Date	Factory Response (Optional)	Company Follow Up (October 18, 2004; Unannounced Visit)
10. Overtime Compensation									
In addition to their compensation for regular hours of work, employees will be compensated for overtime hours at such premium rate as is legally required in the country of manufacture or, in those countries where such laws will not exist, at a rate at least equal to their regular hourly compensation rate.									
OT Compensation	Clause 44 of China Labor Law: OT compensation should be paid at rate of 150%, 200% and 300% on normal days, rest days and statutory holidays.	The factory shall comply with applicable law for premium rates for overtime compensation.	Double records found during the audit, no evidence indicated that workers OT compensation complies with China Labor Law.	1) According to interview with workers, the hourly rate workers OT compensation is RMB 1.5 per hour, less than normal work payment, and piece rate workers paid piece rate only, not paid at rate of 150%, 200% and 300% on normal days, rest days and statutory holidays; 2) Double records found during audit (please refer to working hours); the OT hours on the payrolls are inconsistent with the actual OT hours.		Overtime hours are to be compensated in accordance with local law and per Article 44 of China Labor Law.	Immediate		Overtime pay was paid in accordance with local law, based on a review of August payroll. No indication of double books observed at this time.
Miscellaneous									
Unauthorized Subcontracting			The factory has some process subcontractors, and all knitting processes not on site. As management responds, knitting processes are conducted by their oversea company and washing subcontractor was approved by PC company, but no document evidence provided.	1) Based on the materials issue approval records, some processes by subcontractor of washing and linking found. 2) Based on the interview with management, using subcontractor was confirmed.		The same legal protections and code standards covering wages, hours, record keeping, health and safety, as well as other applicable code provisions, apply to factory's subcontractors and homeworkers, if utilized. Factory must receive approval from Eddie Bauer in order to subcontract Eddie Bauer production to other facilities.	9/20/2004		According to factory management, it has discontinued the use of subcontractors by taking less work orders.
Possible Homework			Utilizing homework was identified during the audit.	1) Based on the materials issue approval records, the factory utilizes some homework to do processes of linking found; 2) Based on interview with management, utilizing homeworkers confirmed.		See above.			See above.