

<b>FLA Audit Profile</b>	
Country	Malaysia
Factory name	070046382E
IEM	Kenan Institute Asia
Date(s) in facility	21-22 August, 2006
PC(s)	Nike, Inc.
Number of workers	240
Product(s)	Shirts
Production processes	Cutting, Sewing, Inspection, Packing

FLA Code/ Compliance issue	Country Law/Legal Reference	FLA Benchmark	Non-compliance	Risk of Non-compliance	IEM Findings				Remediation				(Status)	Updates (Cite Date of Follow up)	Third-Party Verification	Company Verification Follow up		
					Evidence of Non-compliance (un corroborated)	If not corroborated, explain why	Sources/Documentation used for corroborating	Notable Features implemented by Factory	PC Remediation plan	Target Completion Date	Factory Response (Optional)	Company follow up (Cite date of)				Documentation	Completed (Pending/ On-going)	Documentation
<b>1. Code Awareness</b>																		
Code posting/information		<b>FLA Principle of Monitoring, Obligation of Companies:</b> Establish and articulate clear, written workplace standards. Formally convey those standards to Company factories as well as to licensees, contractors and suppliers.	The code was posted only in English at the entrance to the office, this poses a difficulty to understand for workers, some of whom are illiterate and foreign workers (i.e. Nepalese, Indian and etc.).				Visual inspection Records inspection		To ensure the CoC on relevant languages are posted (Vietnamese, Tamil and Mandarin).	5/24/2007		5/14/2007	Photos	Completed			Done	Done
Workers/management awareness of Code		<b>FLA Principle of Monitoring, Obligation of Companies:</b> 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.	Workers were not aware of the code of conduct (i.e. Nepalese, Vietnamese and etc.).				Worker interview		Refresher training for all foreign workers and staff.	5/24/2007		5/14/2007	Training documents and material	Completed			Will schedule a refresher training for workers and staff on September onward.	To be done
Confidential non-compliance reporting channel		<b>FLA Principle of Monitoring, Obligation of Companies:</b> 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 non-compliance with the workplace standards, with security that they shall not be punished or prejudiced for doing so.				Workers do not use the suggestion box but they communicate directly to HR Manager or union committee.	According to workers' feedback, the box is located in front of reception. Some workers do not know to write in local language.	Worker interview and visual inspection	To be relocated to the pantry and toilet area with relevant documents to be provided.	5/24/2007		5/14/2007	Relocation done. Photo	On-going			Done	Done
<b>2. Forced Labor</b>																		
There will not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise.																		
Freedom of Movement		If factory entrances are locked or guarded to prevent non-employee access to the premises for security reasons, employees will have free egress at all times.				Rules and regulations of the hostel are different among the foreign workers.	The Chinese workers are required to go back to their hostel before 12 p.m. except for work or when granted permission by HR personnel. However, this clause is not stated in the Nepalese or Indian workers hostel rules and regulations.	Worker interview and document review	Standard rules and regulation for all hostels.	5/24/2007		5/14/2007	Rules and regulations have been prepared and posted in hostels but socialization is still pending. Relevant documents available.	On-going			Chinese, Nepah, Tamil, Vietnam vision rules and regulation already done. i) Factory is using the staff from the Foreign Employment agency to join them during the orientation and the translation. Sometimes factory uses the senior foreign workers who are well versed with local language to assist them in the translation. ii) Documents like COCA and SOP are being communicated to the workers using the senior foreign workers from respective countries as translators during briefing.	Done
Employment Terms		Employment terms shall be those to which the worker has voluntarily agreed.				No transfer letter was found, the foreign workers transfer from other plant without being asked for their consent or a transfer letter. The overtime offer in the previous plant is different from the current working premises.	The foreign workers stated that factory just asked and assigned them to work in Tai Wha location; they will then follow up this assignment.	Worker interview and document review	Standard documents to be prepared.	5/24/2007		5/14/2007	Letter has been prepared but could not see it being utilized, one new transfer at this site.	On-going			All workers transfer with proper document.	Done
Recruitment Contracts	Employment Act 1965 (Act 265)	There can be no employment terms (including contracts, recruitment arrangements, or any other instruments) which specify that employees can be confined or be subjected to restrictions on freedom of movement; allow employees to hold wages already earned; provide for penalties resulting in paying back wages already earned; or in any way punish workers for terminating employment. It is acceptable to provide bonuses to workers who stay for a term of contract and meet reasonable conditions, such as regular attendance, punctuality, good quality, etc.				Some workers do not receive copies of their employment contract as the reference document.		Worker interview, document review and visual inspection	Photostat and give a copy to the relevant workers.	5/24/2007		5/14/2007	Checked with drivers, photocopy was given but can't determine whether all the workers were given or not. Have asked factory to prepare a list of workers to whom the 2nd copy was given.	On-going			All the contract already prepared and given to workers.	Done
<b>3. Child Labor</b>																		
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.																		
<b>4. Harassment or Abuse</b>																		
Every employee will be treated with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment or abuse.																		
<b>5. Non-discrimination</b>																		
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.																		

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<b>6. Health and Safety</b>																			
Employees 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.																			
Document Maintenance/ Accessibility	Occupational safety and health (Employer's safety and health general policy statements) Exception) Regulations 1996.	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 Safety, health and environmental policy are not posted in the production floor nor in the language spoken by the majority of the workers and the copy posted in the notice board is out dated.			Visual inspection. Records inspection. Safety and health committee members interview.			Policy to be updated and posted. To be translated in relevant languages.	1/3/2007	5/14/2007	Policy has been updated. Translations still on going. Documents available	Ongoing					English, Malay and Bangladesh version already done. Other language still in process.	To be done
Evacuation Procedure	Factories and machinery (safety, health and welfare) Regulation 1970	All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, unblocked aisles/levels, employee education, evacuation procedures, etc.) shall be complied with and workers shall be trained in proper safety, first aid, and evacuation procedures.	The emergency escape route at the sample sewing area is blocked by sample clothing and the exit door is locked.			Visual inspection.		Doors to be unlocked during work hours.	1/3/2007	5/14/2007	Photos available.	Completed						Rectified, door unlocked during working hour. The Management has carried out extensive renovation and have changed all the exit doors to a push button type whereby in case of emergency workers could open the door and exit without any problem. Padlocks are not used anymore.	Done
Safety Equipment	Fire services act 1988 (act 341)	All safety and medical equipment (such as fire fighting equipment, first aid kits, etc.) shall be in place, maintained as prescribed and accessible to the employees.	The fire sprinkler system at the sample sewing areas is covered by the ceiling board. Number of the emergency exit lighting are not functioning (i.e. EG03, lab, BG10 and etc) and few break glass are broken. (i.e. BG02, BG08 and etc.)			Visual inspection.		To be checked and documented. Maintenance action to be taken.	1/3/2007	5/14/2007	Whole production floor has been re-done. Photos available	Completed						Sample room have been shifted out.	Not applicable
PPE	Occupational safety and health (classification, packaging and labeling of hazardous chemicals) Regulation 1997.	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.	1) The PPE provided to the laboratory personnel for handling of IEC phosphate reference detergent B did not follow the recommendation as per MSDS given by the chemical supplier (i.e. protective clothing and safety goggles not available). 2) The contaminated rubber glove with IEC phosphate reference detergent B is kept in the table drawer with cotton mask, paper and etc.			Visual inspection, records inspection.		PPE training and usage of PPE at lab.	1/3/2007	5/14/2007	Production floor restructured. Training and usage visible. Photos and documents available.	Completed						Re-schedule PPE training. Proper PPE already given.	To be done
Chemical Management	Occupational safety and health (classification, packaging and labeling of hazardous chemical) Regulation 1997	All chemicals and hazardous substances should be properly labeled and stored in accordance with applicable laws. Workers should receive training, appropriate to their job responsibilities, in the safe use of chemicals and other hazardous substances.	There is no proper hazardous chemical labeling of the IEC phosphate reference detergent B after it was repacked from the carton box to plastic pail.			Visual inspection, records inspection.		MSDS on the relevant containers.	1/3/2007	5/14/2007	Containers have the MSDS. Photos available. Need to check to ensure it's being practiced	Ongoing						Second container for detergent already provided.	To be done
Sanitation in Dormitories	Fire Act 1988 (Aka Bomba), Section V, Clause 28 - required evacuation drill to be conducted at least once a year.	All dormitories shall be kept secure, clean and have safety provisions (such as fire extinguishers, first aid kits, unobstructed emergency exits, emergency lighting etc.). Emergency evacuation drills should also be conducted at least annually.	The emergency evacuation drills have not been conducted for the past two years.			Records inspection, safety and health committee interview, workers' interview		Evacuation drill to be conducted.	1/3/2007	5/14/2007	In-house drill was conducted. Photos available. Need to do drills with the local fire brigade team	Ongoing						Internal Fire Extinguisher training held on 5/22/06. Fire Drill still in process.	To be done
Worker Participation	Occupational safety and health (safety and health committee) Regulations 1996.	Workers should be involved in planning for safety, including through worker safety committees.	The safety and health committee did not meet once in every three months to assess the work-related risks.			Records inspection, safety and health committee interview		Monthly meetings and proper documentation	1/3/2007	5/14/2007	Still following quarterly meeting. Need to implement	Ongoing						ESH meeting will be held every month.	Done
Other	Environmental Quality (Sewage and Industrial Effluents) Regulations 1979	The effluent needs to compliance to the parameters limit that is specified in the standard A or B.	The effluent from the washing at the laboratory (total 22 unit of washing machine-13 units with volume 45 liters and 9 unit with volume 30 liters) is directly discharged into the morsoon drain without any confirmation that the effluent parameter complies with the limits of effluent of standard A or B.			Visual inspection, management interview.		Effluent should be sent for analysis. Parameter should comply with local limits and A or B standards.	1/3/2007	5/14/2007	not done	Ongoing						Awaiting lab report.	To be done
<b>7. Freedom of Association and Collective Bargaining</b>																			
Employees will recognize and respect the right of employees to freedom of association and collective bargaining.																			
Unfair dismissal		The employer will not dismiss, discipline, or otherwise coerce or threaten workers seeking to form, join or participate in workers' organizations.	Only 20 workers are joining the Union and all are Malays. Non-union members are treated differently from union member as per collective bargaining agreement.	According to the union, the others are not joining because the benefits provided are not equal to those who are not joining the union. According to the union feedback, their increment is only RM40 (as per Agreement: Employment Agreement 2006 (signed with Union) as e.g., Article 6(b)- non-union members coming within the scope of agreement shall not enjoy more favorable benefits than those enjoyed by union members of the same categories) compared to non-union members, who already get the income higher than they have.		Document Review, worker interview		FOA training for all workers. Need to ensure management is not biased.	1/3/2007	5/14/2007	Training has been done but it does not cover all workers.	Ongoing						Freedom association in all our branches are unionised. Workers are free to join or not to join union. 1.) All daily and piece rated workers are paid as per the salary scale stated in the Collective Agreement (CA) upon reaching the anniversary date a worker joined. 1.) As for monthly rated workers, annual increments are paid in the month of July of every year. As per CA - Article 29 which reads as follows: (a) Employees will be eligible for annual increment in accordance with their appropriate salary scales to the maximum thereof payable on the anniversary dates of their employment. (b) Where in the opinion of the Factory, the performance of an employee is above average, the management at its discretion may grant more enhanced increment rate to such an employee. Increments are solely based on performance. Appraisal forms are being prepared to ensure there is proper grading criteria based on performance.	Done
Other: Absence of policy			No Freedom of Association policy was established.			Management interview and document review		To issue out policy and translate to relevant languages	1/3/2007	5/14/2007	Policy has been prepared and posted. Documents available but translation not completed yet.	Ongoing						Done	Done

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<b>II. Wages and Benefits</b>																		
Employees 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.																		
Legal benefits	Employment Act 1955 (Act 265)	Employers will provide all legally mandated benefits to all eligible workers.	The number of annual leave stated on the employment contract is inconsistent with the leave record 2006: e.g. One worker from packing section works for two years, which should entitle him/her to 12 days annual leave but the leave record is nine days. Another worker from store department is entitled to nine days of annual leave but leave record is eight days.			Document review, CA review, worker interview		To rectify the error, inform workers and proper system to be in-place.	1/3/2007		5/14/2007	Documents on the rectification is available.	Completed			Annual Leave for Indian workers already rectified and adjusted.	Done	
<b>III. Hours of Work</b>																		
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		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.	Based on the randomly selected 25 employees' time records, some workers worked OT in excess of 12 hours a week. Details as follows: - August 2005, maximum OT was 16 hours/week. - September 2005, maximum OT was 16 hours/week. - November 2005, maximum OT was 17.5 hours/week. - December 2005, maximum OT was 16 hours/week. - January 2006, maximum OT was 23 hours/week. - February 2006, maximum OT was 16.5 hours/week. - April 2006, maximum OT was 23 hours/week. - May 2006, maximum OT was 22 hours/week. These workers worked in Sewing and General section.			Payroll and time records review, worker interview		To ensure the 60 hours regulation is adhered.	12/12/2007		5/14/2007	Still have issues with the work hours	Ongoing			i) Overtime work at factory is not consistent and are seasonal only. ii) Most of the time OT is carried out due to Raw Material and Accessories delay. iii) The Management has set up an Overtime Task Force. This team is entrusted to ensure that Material reach the factory on time and also carry our weekly production planning meeting to distribute order equally to other factories so that there is no over capacity in any one factory. Overtime in control.	Done	
Overtime Limitations		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	Some workers worked without at least one day off in every seven days period. In January, April, May 2006			Payroll and time records review, worker interview		One day off in seven is compulsory.	1/3/2007		5/14/2007	Records were checked. No work done on rest days since June 2006	Ongoing			As for working on Rest Days, have stopped working on Rest Days completely. Done	Done	
<b>IV. Overtime Compensation</b>																		
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.																		
<b>Miscellaneous</b>																		