



2008

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** Asics, Umbro  
**COUNTRY:** China  
**FACTORY CODE:** 400215855G  
**MONITOR:** SGS (Societe General du  
Serveillance)  
**AUDIT DATE:** November 12, 2008  
**PRODUCTS:** Bags  
**PROCESSES:** Cutting, Sewing, Packing  
**NUMBER OF WORKERS:** 543



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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:** 5 kinds of social insurances could be provided as per local social insurance administrative department. But, the factory did not provide all 5 social insurances to all employees. Only retirement and unemployment insurances provided to 530 out of 543 employees. No maternity, accident and medical insurance provided. Based on interviews with workers, they were willing to have social insurance if factory provided it to them.

Remarks: 1 waiver was obtained from local social insurance administrative department to prove that such percentage meets local requirement.

This violated China Labor Law: Article 72; the sources of social insurance funds shall be determined according to categories of insurance, and an overall pooling of insurance funds from the society shall be introduced step-by-step. The employing unit and laborers must participate in social insurance and pay social insurance premiums in accordance with the law. Article 73; laborers shall, in accordance with the law, enjoy social insurance benefits under the following circumstances: (1) retirement; (2) illness or injury; (3) disability caused by work-related injury or occupational disease; (4) unemployment and (5) childbearing.

**Plan Of Action:** Not paying social insurance is now against Chinese Labor Law. All 5 types of social insurance (pension, unemployment, medical, industrial injury and maternity) must be covered across all employees. It is strongly recommended that factory pay 5 types of social insurance to 100% of employees. Factory is required to produce an action plan, including timescales, from which shall be applied to introduce the remaining social insurance benefits to the employees.

**Deadline Date:** 12/31/2012



- Supplier CAP:**
1. Factory plans to provide gradually commercial health insurance and maternity insurance for all staff by end of 2009.
  2. Factory plans to provide gradually governmental industrial injury insurance, health insurance and maternity insurance for 30% of staff by the end of 2010.
  3. Factory plans to provide gradually governmental industrial injury insurance, health insurance and maternity insurance for 70% of staff by the end of 2011.
  4. Factory plans to provide gradually governmental industrial injury insurance, health insurance and maternity insurance for all staff by the end of 2012.

**Supplier CAP** 12/31/2012  
**Date:**

**Action  
Taken:**

**Plan  
Complete:**

**Plan  
Complete  
Date:**

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## **Wages, Benefits and Overtime Compensation: Premium/Overtime Compensation**

WBOT.10 The factory shall comply with all applicable laws, regulations and procedures governing the payment of premium rates for work on holidays, rest days, and overtime. (S)

### **Noncompliance**

**Explanation:** Based on payrolls from October 2007 to September 2008 provided by factory, all workers compensated at legal mandated rate for their OT hours. 150%, 200% and 300% of regular pay for OT work on weekdays, rest days and statutory holidays respectively, according to relative attendance records. But, deficiencies found in OT payment. Factory did not pay for weekday and rest day OT, found in production records, but not registered in attendance records. For example, no payment paid to workers who worked OT August 17 and 23; September 6, 13, 20 and 21, based on payrolls provided by management.

This violated China Labor Law, Article 44: Employing unit shall, according to the following standards, pay laborers remunerations higher than those for normal working hours under any of the following, to pay no less than: 1) 150% of normal wages if extension of working hours is arranged; 2) 200% of normal wages if extended hours arranged on days of rest and no deferred rest can be taken and 3) 300% of normal wages if extended hours arranged on statutory holidays.

**Plan Of Action:** Factory should compensate all OT according to law, which is 150%, 200% and 300% of regular pay. Factory is required to immediately back pay the employees in question and document this action. Furthermore, all leave and bonuses shall be calculated correctly. Employers shall make every reasonable effort to ensure workers understand the wages, including calculation of wages, incentives systems, benefits and bonuses they are entitled to in factory and under applicable laws. Employers shall communicate orally and in writing to all workers all relevant information in the local language spoken by worker and workers should sign to confirm they understand.

**Deadline Date:** 04/20/2009

**Supplier CAP:**

1. Factory will check and make up for payment that was less than minimum wage.
2. Factory will train employees on method of calculating wages and the notice of stop.
3. Factory will distribute the wages materials to employees.

**Supplier CAP Date:** 04/20/2009

**Action  
Taken:**

**Plan  
Complete:**

**Plan  
Complete  
Date:**

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### **Freedom of Association: Right to Freely Associate**

FOA.2 Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers. (S)

#### **Noncompliance**

**Explanation:** Independent unions are legally prohibited in Chinese factories. There is a trade union established in this factory, which was led by management and local official ACFTU. The chairman of trade union is Office Supervisor of factory. Most workers participated in the selection of trade union. Main leaders were selected by workers.

**FLA Comment:** The Chinese constitution guarantees Freedom of Association; however, Trade Union Act prevents 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 Trade Union Act are contrary to fundamental principles of freedom of association, including non-recognition of the right to strike. As a consequence, all factories in China fall short of ILO standards on right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve functioning of labor relations mechanisms. 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. Trade union has the responsibility to consult with management on key issues of importance to members and to sign collective agreements. It also grants trade union an enhanced role in dispute resolution. In December 2003, 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:** Factory does not fully understand freedom of association. Factory management needs to be educated so that they fully understand the need for collective bargaining and freedom of association within factory for the workers' benefit. Employees have the right to elect representatives of their organizations and to conduct activities without their employer's interference. Thus, employer should not interfere with workers' right to freely associate by controlling such groups committees and forces. All employees should receive full training to understanding their right to freely associate.

**Deadline Date:** 04/29/2009

**Supplier CAP:**

1. Factory will post the relevant laws on the notice board in a prominent place.
2. Factory will hold FOA training for all management; the management is required to communicate this information to all of the workers.

**Supplier CAP Date:** 04/29/2009

**Action Taken:**

**Plan Complete:**

**Plan Complete Date:**

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**Code Awareness:**

GEN.2 Ensure that all Company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis.

**Noncompliance**

**Explanation:** Company did not train factory's management and workforce on code obligations.

**Plan Of Action:** Umbro Code of Conduct has been sent out along with an acknowledgment document, and obligations are to be signed by each manufacturer and licensee. Factory is required to communicate the code to all workers and post it in the local language accordingly. Asics requires the factory to organize the worker awareness training as well as Umbro.

**Deadline Date:** 04/01/2009

**Supplier CAP:**

**Supplier CAP Date:**

**Action Taken:** Umbro and Asics confirmed that factory has posted Umbro and Asics Codes of Conduct in a prominent place.

**Plan Complete:**

**Plan Complete Date:** 04/01/2009

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**Code Awareness:**

GEN.3 Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable Company employees and employees of contractors and suppliers to report to the Company on noncompliance with the workplace standards, with security that they shall not be punished or prejudiced for doing so.

**Noncompliance**

**Explanation:** No noncompliance reporting mechanism was established between the companies and workers. No non-retaliation policy was established.

**Plan Of Action:** Factory has been issued CSR remediation/monitoring log, communicated by the licensee, containing a step-by-step corrective action plan. Umbro CSR team will conduct regular monitoring visits and also communicate with factory on a regular basis through email and telephone. Workers can contact Umbro through same channel. Asics requires the factory to attach our local contact point call number at the bottom of the poster. Stickers will be hand carried to factory.

**Deadline Date:** 05/10/2009

- Supplier CAP:**
1. Factory will establish control procedures and a system for internal grievances.
  2. Factory will draft a grievance letter format.
  3. Factory will regularly collect grievance letters, and factory's response will be posted on the notice board.
  4. Factory will classify contents of grievances/complaints, and analyze grievance charts.

**Supplier CAP Date:** 05/10/2009

**Action Taken:**

**Plan Complete:**

**Plan Complete Date:**

## Miscellaneous: Illegal Subcontracting

MISC.1 Illegal Subcontracting

### Uncorroborated Evidence of Noncompliance

**Explanation:** Factory used some subcontractors in production of embroidery and printing. Factory stated that all subcontractors were approved by its clients. But, factory did not provide evidence to prove that these subcontractors had been approved by Asics and Umbro.

**Plan Of Action:** Factory is required to submit all subcontracting facility information prior to production, upon signing manufacturing authorization agreement. Factory is urged to immediately provide subcontractor information. Asics requires factory to monitor their subcontractors by their own responsibility. The lists of subcontractors shall be submitted to Asics.

**Deadline**

**Date:**

**Supplier CAP:**

1. Factory will sign the agreement with the subcontracting facility.
2. Factory will submit the subcontract lists to Umbro and Asics.

**Supplier CAP** 07/10/2009

**Date:**

**Action**

**Taken:**

**Plan**

**Complete:**

**Plan**

**Complete**

**Date:**

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## Health and Safety: Machinery Maintenance and Worker Training

H&S.18 All production machinery, equipment and tools shall be regularly maintained and properly guarded. Workers shall receive training in the proper use and safe operation of machinery, equipment and tools they use. Employers shall ensure safety instructions are either displayed/posted near all machinery or are readily accessible to the workers. (S)

### Noncompliance

**Explanation:** All computer sewing machines were not equipped with broken needle safeguards. The transmission belts of 7 sewing machines had no protective device. This violated general rules for designing the production facilities, in accordance with Safety and Health Requirements 3.1.2; Safeguards should be installed, where it is necessary for the operator to approach the moving part of the operating machine. 3.1.6; While the height of any below device is within 2M from the horizontal surface of operator, any transmission belt, rotating shaft, driving chain, couplings, pulleys, gear wheel, flywheel, chain wheel, electric saw and other dangerous parts should be equipped with protective devices.

**Plan Of Action:** 100% of sewing machines must have fitted needle guards. It is also required that 100% of sewing machines shall be fitted with pulley guards. Steps should be taken in order to prevent fire and personal injury. Factory should appoint a responsible employee to ensure that the Health and Safety Policy is enforced and all areas of the policy are covered. The employer is required to develop, maintain and regularly review a written Health and Safety Policy. The policy must, at least, be aimed at complying with: legal minimum safety and health standards, regulations and procedures (such as fire for safety), PPE, safety equipment, chemical handling, storage, toilet hygiene and drinking water. MSDS should be communicated clearly to workers and posted in all chemical storage areas. Safety training should encourage workers to use PPE and instruct them on the reasons for it and how to use it properly. This shall then be communicated to all workers in the local language. Maintained equipment should be clearly marked with a regular inspection sheet, showing all requirements, load limits, weight capacities and kept up to date, etc.

**Deadline Date:**

**Supplier CAP:**

1. Factory will recheck the safety guards of all sewing machines.
2. Factory will move off the incompetent machine from workshop.
3. The CSR department will inspect the workshop once per week.

Supplier CAP 07/30/2009

Date:

Action  
Taken:

Plan  
Complete:

Plan  
Complete  
Date:

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### Hours of Work: Rest Day

HOW.2 Workers shall be entitled to at least one day off in every seven-day period. If workers must work on a rest day, an alternative day off must be provided within that same seven-day period or immediately following the seven-day period. (P)

### Noncompliance

**Explanation:** Inconsistencies were identified between production records and provided attendance records. In particular, the production daily reports from the sewing workshop showed that there were some sewing workers working on August 17 and 23; September 6, 13, 20 and 21; October 18 and 19 of 2008. However, the provided attendance records were indicating that all workers rested on those days. In addition, some sampled interviewed workers said they worked on Sundays sometimes. Therefore on estimated basis, some workers in the sewing workshop had worked at least 12 days continuously in September and October of 2008. This violated China Labor Law, Article 38: The employing unit shall guarantee that its staff and workers have at least one day off in a week.



**Plan Of Action:** Factory is required to maintain accurate and consistent records for monitoring pay and working hours, including ensuring all timesheets are kept up to date, clocking systems tally with registers, delivery notes, needle logs inspection, production reports, cleaning records, etc. All information must match from employee to employee, to determine code compliance. It is necessary that factory has available, complete and accurate and up to date records. Factory is required to implement a clocking or time card system to log all employees' timings, breaks, starts and finishes. Factory is required comply with all applicable laws, rules and regulations on working hours, overtime and benefits.

When a worker is hired, factory must disclose to worker the regular working hours per day, applicable wage rate, policies regarding overtime hours and payment and probation period if applicable. Factory must have written policy which states/allows workers have 1 day off in every 7th day, at least. Since Asics is cautious to avoid factory hiding their actual situation, we do not require improvement too quickly, unless it is certain factory will be able and wants to meet benchmarks for compliance. Asics requires factory to take steps to improve on rest day issue under a spirit of continuous improvement. Actual performance shall be submitted on the 20th of every month.

**Deadline Date:** 05/10/2009

**Supplier CAP:** Factory will request labor bureau issue a new certificate with number of staff and working process in the next month.

**Supplier CAP Date:**

**Action Taken:**

**Plan Complete:**

**Plan Complete Date:**

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## 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:** Inconsistencies were identified between production records and provided attendance records. In particular, production daily reports of sewing workshop showed were some sewing workers working August 17, 23; September 6, 13, 20, 21; October 18, 19, 2008. However, provided attendance records indicated all workers rested on those days. Moreover, both payrolls and attendance records showed no overtime was arranged in September 2008. All workers did not work overtime on Sundays in August, September and October, 2008; workers sometimes worked overtime until 20:30 weekdays; some sampled interviewed workers said they sometimes worked Sundays and overtime until 22:30 weekdays. In addition, other daily production reports from sewing workshop showed some sewing workers worked November 9, 2008. However, provided attendance records indicated these workers rested on this day. Sampled interviewed workers and management staff said these workers did not work November 9, 2008.

Due to inconsistencies mentioned above, it appeared factory failed to completely and accurately record all working hours of employees. Based on provided attendance records, production records and worker interviews, it is estimated that monthly overtime might be up to 90 hours and weekly working hours might be up to 66 hours. Some workers in sewing workshop had worked at least 12 days continuously in September and October of 2008. Both management and workers confirmed that overtime was generally arranged for all production workers in a day or a month. Therefore, auditor estimated that approximately 75% of workers had worked excessive overtime, especially workers in sewing, cutting and packing workshops.

This violated China Labor Law, Article 41: Employing unit may extend working hours due to requirements of its production or business after consultation with trade union and laborers, but extended working hours for a day shall generally not exceed 1 hour. If such extension is called for due to special reasons, extended hours shall not exceed 3 hours a day; under the condition that health of laborers is guaranteed. However, total extension in a month shall not exceed 36 hours.



**Plan Of Action:** Factory is required to maintain accurate and consistent records for monitoring pay and working hours, including ensuring all timesheets are kept up to date, clocking systems tally with registers, delivery notes, needle logs inspection, production reports, cleaning records, etc. All information must match from employee to employee, to determine code compliance. It is necessary that factory has available, complete, accurate and up-to-date records. Factory is required to implement a clocking or time card system to log all employees' timings, breaks, starts and finishes. Factory is required to comply with all applicable laws, rules and regulations on working hours, overtime and benefits. When a worker is hired, factory must disclose to worker the regular working hours per day, applicable wage rate, policies regarding overtime hours and payment and probation period if applicable. Asics requires factory to do necessary action as Umbro requested.

**Deadline Date:** 05/10/2009

**Supplier CAP:** Factory will request Labor Bureau issue a new certificate with number of staff and future working process in one month.

**Supplier CAP Date:** 04/29/2009

**Action Taken:**

**Plan Complete:**

**Plan Complete Date:**

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