



2011

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Wilson Sporting Goods

COUNTRY: China

FACTORY CODE: 830015340HV

MONITOR: Level Works Limited

AUDIT DATE: August 8-9, 2011

PRODUCTS: Balls

PROCESSES: Cutting, Sewing, Printing,
Rubber Compounding, Endothecium,
Assembly, Packing

NUMBER OF WORKERS: 3,602

FLA Comment:

This report was submitted with a corresponding corrective action plan to the FLA and was reviewed by FLA staff. In an effort to improve the effectiveness of remediation, the FLA has provided feedback and recommendations to the company, however the recommendations have not been agreed or incorporated by the company. The report is posted in its current state and is considered finalized. Updates on the progress of the corrective action will be posted when received by the company.



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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: The last date for social insurance payment was October 27, 2009. According to the receipts, no worker had participated in childbearing insurance. However, the factory had obtained a written waiver from the [City name] social insurance bureau to prove that they were in compliance with the local laws.

Legal Reference: PRC Labor Law article 72

Plan Of Action: Since maternity insurance is still not available from the local insurance bureau just as many other cities in China, our factory has some protection for female staff and workers, such as paid maternity leave, a nursing room, pregnancy period, working hours limits, and so on. Factory will have all of the workers participate in the maternity insurance as soon as it is available from the local insurance bureau.

Deadline Date: 07/02/2010

Action Taken: As the maternity insurance is still not available from the local insurance bureau, the factory still cannot participate in the maternity insurance for workers.

Plan Complete: No

Plan Complete Date:

Action Verified: No



Action Verified Text: (Pending August 8-9, 2011) Based on the provided social insurance receipts and employee interviews, it was found that the factory did not provide maternity insurance for any employees.

Remark: the factory provided pension, medical, work-related injury and unemployment insurances for all employees, and the factory obtained a written waiver from [Local insurance bureau] on May 18, 2011, which stated that [County name] had not yet offered maternity insurance.

Action Verified Date: 08/09/2011

Follow-up Plan of Action: Maternity insurance has not been executed in [Province name]. It will be implemented around 2012. Besides, we will communicate with Social Insurance Bureau and guarantee the workers' benefit.

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 October 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 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.

Plan Of Action: Factory has planned the time frame to re-recommend and re-elect their union member representatives as follows:

- a. July 27-July 31, 2010: Promotion of the union election proposal;
- b. August 2-August 15, 2010: Election of the workers' representatives from normal workers (open to all workers for election);
- c. September 2010 onwards: there will be an open worker union representative meeting once per month.

Deadline Date: 09/30/2010

Action Taken: Factory has planned the time frame to re-recommend and re-elect their union member representatives as below:

- a. July 27-July 31, 2010: Promotion of the union election proposal;
- b. August 2-August 15, 2010: Election of the workers' representatives from normal workers (open to all workers for election);
- c. September 2010 onwards: there will be an open worker union representative meeting once per month.

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text: (Pending August 8-9, 2011) Based on document review and management interviews, it was found that there was 1 trade union in the factory. But the trade union in the factory was under ACFTU, which was contrary to the fundamental principles of freedom of association of ILO standards if the factory had a trade union under ACFTU.

Action Verified Date: 08/09/2011

Follow-up Plan of Action: We strengthen the communication channel through workers' interview and collaboration with the workers' association in order to have a better understanding with the workers, to obtain closer relationship and harmonize working atmosphere.



Freedom of Association: Employer Interference/Constitution, Elections, Administration, Activities and Programs

FOA.5 Employers shall not interfere with the right of workers to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programs. (S)

Noncompliance

Explanation: The workers did not have full freedom to elect their representatives. The union representatives need to be approved by factory management first in order to be nominated. All of the union representatives were management staff (at least in a team leader position). No production worker was elected as union representative.

Plan Of Action: 1. Factory is planning to have workers re-recommend and re-elect their representatives to be union members;

2. Will make sure the election process is open to all workers.

Deadline Date: 09/30/2010

Action Taken: 1. Factory is planning to have workers re-recommend and re-elect their representatives to be union members;

2. Will make sure the election process is open to all workers.

Plan Complete: No

Plan Complete Date:

Action Verified: Yes



Action Verified Text: (Completed August 8-9, 2011) Based on document review and employee interviews, it was found that there were 33 employee representatives (including 8 staff and 25 production workers from each department) in the factory and these employee representatives were elected by employees voluntarily between July 30 and August 5, 2010. There were also 15 management representatives in the factory. The provided meeting records showed that the management representatives conducted meetings with the employee representatives once per 1-2 months, and the latest meeting was on June 15, 2011.

Action Verified Date: 08/09/2011

Code Awareness:

GEN.1 Establish and articulate clear, written workplace standards. Formally convey those standards to Company factories as well as to licensees, contractors and suppliers.

Noncompliance

Explanation: Wilson's Code of Conduct was not posted in the factory.

Plan Of Action: Post Wilson's Code of Conduct on the public notice board in the workshops.

Deadline Date: 11/15/2009

Action Taken: Wilson's Code of Conduct has been posted on the public notice board in the workshops.

Plan Complete: Yes

Plan 11/15/2009

Complete

Date:

Action Yes

Verified:

Action (Completed Aug. 8-9, 2011) Based on on-site observation, it was found that

Verified Wilson's Code of Conduct was posted on the notice board in each workshop.

Text:

Action 08/09/2011

Verified

Date:

Health and Safety: Safety Equipment and First Aid Training

H&S.10 All safety and medical equipment (such as fire fighting equipment, first aid kits, etc.) shall be available in sufficient numbers throughout the factory, maintained and stocked as prescribed and easily accessible to workers. A sufficient number of workers shall be trained in first aid and fire fighting techniques. (S)

Noncompliance

Explanation: 1. It was noted that 3 first aid boxes were empty in the workshops.

2. It was noted that at least 5 fire extinguishers and 2 fire hydrants were blocked by goods in the workshops.

Legal Reference: Code for Design of Extinguisher Distribution in Buildings (GB 50140-2005) Article 5.1.1

Plan Of Action: 1. All of the first aid kits in the workshops are open without a lock; workers can freely get to the materials in the kits. Factory clinic updates the kits, filling them every morning. Also, the factory clinic is available near the workshops. Factory will keep continuous improvement to keep the kits full at all times.

2. Cleared all the goods blocking fire equipment in the facility. To keep the fire equipment unblocked, factory improved marks/labels on fire equipment, making them more legible.

3. Factory Health, Safety and Environmental (HSE) team organized basic fire fighting techniques training to workers in May this year. Organized usage of first aid training to workers was this June.

4. All new employees must be trained on first aid kit usage and basic fire fighting techniques in the new employees training class.

Deadline Date: 06/30/2010

Action Taken: 1. All of the first aid kits in the workshops are open without a lock; workers can freely get to the materials in the kits. Factory clinic updates the kits, filling them every morning. Also, the factory clinic is available nearby the workshops. Factory will keep the kits full at all times.

2. Already cleared all the goods blocking fire equipment in the facility. To keep the fire equipment unblocked, the factory improved marks/labels on fire equipment, making them more legible.

3. Factory HSE team organized basic fire fighting techniques training to workers in May this year. Organized usage of first aid training to workers was this June.

4. All new employees have been trained on first aid kit usage and basic fire fighting techniques in the new employees training class.

Plan Complete: Yes

Plan Complete Date: 06/30/2010

Action Verified: No

Action Verified Text:

1. (Ongoing August 8-9, 2011) Based on on-site observation, it was noted that 2 out of 8 sampled first aid boxes were empty in the workshops.
2. (Completed August 8-9, 2011) Based on on-site observation, it was confirmed that goods in the factory did not block any fire extinguisher or fire hydrant.

Action Verified Date: 08/09/2011

Follow-up Plan of Action:

1. Each first aid box is controlled by its commissioner. Sometimes the commissioner doesn't restock the kit in time when the medicine runs out. Hence, our factory clinic arranged a back-up first aid box for contingency.
2. Fire extinguisher and fire hydrant are not allowed to be blocked. HSE has checked and will continue to ensure they remain unblocked. This requirement will be put into the 6S assessment.
3. Our factory has arranged the medical commissioner to check the first aid boxes every day and arranged the HSE to check the fire hydrant every week and keep the maintenance records.

Status: All the first aid boxes have been checked and refilled on/before September 10th.

Health and Safety: Personal Protective Equipment

H&S.11 Workers shall be provided with effective and all necessary personal 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 health and safety hazards, including medical waste. (S)

Noncompliance

Explanation: (New Finding on August 8, 2011) Based on on-site observation, it was found that about 50% silk-screen printing workers in the workshop C5 and about 50% tempo-printing workers in the workshops B2/B3 did not wear proper masks.

Legal Reference: Article 20 of the Law of the People's Republic of China on Prevention and Control of Occupational Diseases and Article 37 of the Law of the People's Republic of China on Production Safety

Plan Of Action: 1. Our factory provides 3M protection equipment for every worker, but some workers wear it incorrectly. HSE has retrained workers. 674 workers participated in training and HSE will do continuous improvement.

2. The HSE department will establish distribution records for the PPE.

Deadline Date: 09/10/2011

Action Taken: 1. Our factory provides 3M protection equipment for every worker, but workers wear it incorrectly. HSE has retrained workers; 674 workers participated in training and HSE will do continuous improvement.

2. The HSE department will establish the distribution records for the PPE.

Plan Complete: No

**Plan
Complete
Date:**

Action No
Verified:

**Action
Verified
Text:**

**Action
Verified
Date:**

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 at least 2 sewing machines were without safety belt guards.

Legal Reference: Safety Manufacturing Law Article 29

**Plan Of
Action:**

1. Check all sewing machines in the facility for those without safety belt guards and equip them with proper protective equipment immediately.
2. Factory will review machines periodically to make sure they are in good condition.

**Deadline
Date:** 11/30/2009

**Action
Taken:** 1. Factory has already checked all sewing machines in the facility for the ones without safety belt guards. These machines have been immediately equipped with safety belt guards.
2. Factory has reviewed machines periodically to make sure they are in good condition.

**Plan
Complete:** Yes

**Plan
Complete
Date:** 11/30/2009

**Action
Verified:** No

**Action
Verified
Text:** (Pending August 8-9, 2011) Based on on-site observation, it was found that:
1. 3 out of 32 sewing machines were not equipped with pulley guards;
2. 20 out of 32 sewing machines were not equipped with needle guards in the workshop B2;
3. Needle guards of about 80% sewing machines were deactivated in the workshop A3.

**Action
Verified
Date:** 08/09/2011

- Follow-up Plan of Action:**
1. Every sewing machine is managed and controlled by special operators, including the maintenance work. Maintenance work on several machines was delayed due to a lack of spare parts. To solve this issue, our maintenance team will stock more spare parts. If the safe guard has not been installed, our workers will follow up to ensure the safe guard is replaced before usage.
 2. We will keep the maintenance records. Status: We have checked and safety belt guards have been installed to all the sewing machines before September 20th. Our maintenance team will keep checking the sewing machines periodically.
-

Hours of Work: General Compliance Hours of Work

HOW.1 Employers shall comply with all local laws, regulations and procedures concerning hours of work, public holidays and leave. (S)

Noncompliance

Explanation: Based on the provided time records and worker interviews, it was found that about 85% workers worked overtime more than 36 hours, average 38-80 hours per month. And about 10% workers worked overtime up to 120 hours in July 2010. Although the factory obtained the comprehensive working hour system waiver for the period July 1st, 2010 to June 30th, 2011, the accumulated overtime working hours for most workers exceeded the legal limit for that period: 432 hours.

Legal Reference: Article 41 of the China Labor Law and Article 65 of the Instruction on the Implementation of the China Labor Law

**Plan Of
Action:**

1. Our factory has formulated the policy of working hours and announced to all workers:
 - a. Working hours don't exceed 60H every week
 - b. Fully and in time to pay salary to workers
 - c. Abide by the principles of voluntarily strictly
2. Due to the producing demanding, our factory obtained the comprehensive working hour system waiver form May to July, due to the shortage of electric, the production has to be delayed.
3. Our factory have announced and regulated the working time policy, to comply with the demand of our customers.
4. Recruitment, production, planning and shifting duties are put into considered by our management to reduce and avoid the overtime working

**Deadline
Date:**

09/10/2011

**Action
Taken:**

1. Our factory has formulated the policy of working hours and announced to all workers:
 - a. Working hours don't exceed 60H every week;
 - b. Fully and timely payment of salary to workers;
 - c. Abide by the principles of voluntarily OT strictly.
2. Due to the production demand, our factory obtained the comprehensive working hours system waiver form May to July, due to the shortage of electric, the production has to be delayed.
3. Our factory has announced and regulated the working hours policy, to comply with the demand of our customers.
4. Recruitment, production, planning and shifting duties are designated to our management to reduce and avoid the overtime working.



Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text:

Action Verified Date:

Hours of Work: Overtime/Reduced Mandated Overtime

HOW.8 The employer shall demonstrate a commitment to reduce overtime and to enact a voluntary overtime system, including for overtime mandated to meet extraordinary business circumstances. (P)

Noncompliance

Explanation: Through review of the barcode attendance records from November 2008 to November 2009, around 98% workers from all factory workshops had worked overtime hours in excess of 36 hours per month. The maximum overtime hours per month were 92 hours in August 2009.

Legal Reference: PRC Labor Law Article 41



**Plan Of
Action:**

1. Since starting production in May 2008, the factory complies with the below working hours policy. We will strictly enforce this policy to control working hours:

a. Maximum 60 hours per week (including overtime and weekend working hours);

b. 1 day off in every 7 days;

c. No more than 3 hours OT per day from Monday to Friday;

d. Fully pay workers' OT;

e. Workers work OT only voluntarily.

2. We have taken measures to lower the overtime hours including:

a. Conducting production engineering review to improve efficiency;

b. Coordinating with the sales team to better arrange orders to avoid overtime hours;

c. Employing more workers if it is necessary.

**Deadline
Date:**

07/02/2010

Action Taken:

1. Since starting production in May 2008, the factory has complied with the below working hours policy. This policy has already been communicated to workers:
 - a. Maximum 60 hours per week (including overtime and weekend working hours);
 - b. 1 day off in every 7 days;
 - c. No more than 3 hours OT per day from Monday to Friday;
 - d. Fully pay workers' OT;
 - e. Workers work OT only voluntarily.
2. In August 2009, there were 31 total days: 21 working days, 5 Saturdays, and 5 Sundays. Total OT in this month is: $2H(OT)/day * 21 + 10 H(OT)/Saturday * 5 = 92H$

Remarks:

1. The factory always complies with the above working hours policy. Only for those events that are generally beyond factory's control such as heavy snow/storm, power shortage, will the factory flexibly arrange working hours. In such a case, the factory will be sure to communicate with workers in advance.
2. In June, July and August, which is peak season for Wilson products in American football, workers in American football work 11 hours a day.

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text: (Pending August 8-9, 2011) Based on the provided time records and worker interviews, it was found that about 85% workers worked overtime more than 36 hours, average 38-80 hours per month. And about 10% of workers worked overtime up to 120 hours in July 2010. Although the factory obtained the Comprehensive Working Hours System waiver for the period July 1st, 2010 to June 30th, 2011, the accumulated overtime working hours for most workers exceeded the legal limit for that period: 432 hours.

Action Verified Date: 08/09/2011

Follow-up Plan of Action:

1. We have set the working hours policy and announced to all workers:
 - a. Working hours will not exceed 60 hours per week;
 - b. Salary will be paid in full and on time to all the workers;
 - c. Overtime work is on voluntarily basis only.
2. Owing to the production demand, we obtained the comprehensive working hours system waiver from May to July. Due to the shortage of electricity, the production has to be delayed.
3. Our factory has announced and regulated the working time policy to fulfill our client's requirement.
4. Recruitment, production, planning and shifting duties are considered by our management to reduce and avoid excessive overtime.

Status: The new working policy was established beginning September 20.
