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. The FLA has not yet received a response from the company. Therefore, the report is posted in its current state and will be updated once a finalized report has been received.

*To read the original IEM report of this factory, please visit the FLA website [here](#). For an explanation on how to read this report, please visit the FLA website [here](#).
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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: Facility records indicate that at least 15 employees have not received all of their vacation time during the past Christmas and Holy Weeks (2 periods). It is a common practice in Guatemala to either work part of their vacation, or to divide the times taken to more than 2 times per year.

Article 136 of the Guatemalan Labor Code: The vacation period can be divided into no more than 2 parts/times.

Plan Of Action: In-house auditor will conduct follow-up visit on September 30. We will follow up on the issue again every 6 months for 1 year to ensure employees have received their proper vacations during 2009.

Provide a written schedule that provides the names of employees and the dates they will take vacations.

Deadline Date: 11/30/2008

11/30/2008

Supplier CAP: During the visit, we explained to the auditors about a plan we had to solve the issue, for all employees under this condition to receive their pending vacations during the weeks from September 15 to October 6. They will leave in groups, in order to continue the flow of production. At the end of this period, the vacation issue will be solved 100%.

Provide a written schedule that provides the name of employees and the dates they will take vacations.

Supplier CAP Date: 10/06/2008
**Action Taken:**
During the HBI follow-up visit on September 30, 2008, the plant showed they did an assessment to find all employees who hadn’t received vacations from last year. They found out that 83 employees were pending vacations and made a plan to give them vacations from September 15 to October 6. There was a memo posted in the plant to communicate this plan to employees. The plant showed pay slips of employees who had finished their vacation periods and had received the payment of those vacation days. Besides proof of these actions, they gave us a copy of the memo, a copy of the plan and copies of pay slips. I took pictures of the memo posted in the plant and also audited personnel files to verify if there were other employees who hadn’t received vacations besides this group of 83. The plant will have this issue solved by October 6.

Photos will be provided by October 17, 2008.

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**Action Verified Text:**
Completed: The factory fulfilled the action plan according to interviews and verification of records. The factory provided documentary information that supports this fulfillment. All workers interviewed confirmed that they have no pending vacations. Although the action plan is fulfilled, [External monitor’s name] considers it a failure in the way vacations are granted, since this leave is divided into 2 parts. The Guatemalan Labor Code, Article 136, 1st paragraph, establishes that vacations can be divided into 2 parts as a maximum, when there are special tasks that do not allow an extended absence. In this case, there is no legal base in labor matters that declares clothing and textile activity a “special case,” in order to grant vacations into 2 parts.

This finding could be corrected according to Article 20 of the Guatemalan Labor Code, 4th paragraph: “The working conditions established in labor contract or employment relationship cannot be altered fundamentally or permanently, unless there is an express agreement between parties or that the Ministry of Labor and Social Welfare authorized it when fully justified.” [Factory’s name] Internal Workplace Policy was authorized June 3, 2009 by the Ministry of Labor. This document does not establish that vacations can be divided into 2 parts according to its Article 30. Even though it is a common practice in the clothing and textile industry, there is no justification for granting vacations in this way, unless the factory has fulfilled with the stipulation established in the Guatemalan Labor Code Article 20.
Wages, Benefits and Overtime Compensation: Timely Payment of Wages

WBOT.4 All wages, including overtime compensation shall be paid within legally defined time limits. When no time limits are defined by law, compensation shall be paid at least once a month. (S)

Noncompliance

Explanation: Facility pays on a monthly basis and provides an advanced payment every 15th of the month, which is less than the earned wages. Although a legal requirement, this is not enforced by local Department of Labor.

Article 92 of the Guatemalan Labor Code: Wages will be paid within 15 days for manual workers.

Plan Of Action: In-house auditor will conduct a follow-up visit on September 30 and check payments for August 15 and September 15. We will follow up on the issue again every 6 months for 1 year to ensure employees have received proper compensation during 2009.

Deadline Date: 11/30/2008

Supplier CAP: This practice was based on employee’s requests because they wanted to get more money at the end of the month. Now and on, employees will receive 50% of their base salary every 15th of the month.

Supplier CAP Date: 09/15/2008
Action Taken: During the September 30 HBI visit, it was confirmed that the plant began paying 50% of the minimum wage since September 15, which is 720 quetzales. The rest of the production incentives, bonuses as well as discounts, accumulate to the end of the month. I randomly picked 10 employees and the plant showed me pay slips where I could see that they received no less than 720 quetzales.

Plan Complete: No

Plan Complete Date: 09/30/2008

Action Verified: No

Action Verified Text: Complete: It is confirmed that the factory pays legally and properly the first fortnight of each month, being 50% of the base salary. Verification to payrolls from March to September 2009, as well as interviews with 23 workers.

Action Verified Date: 09/21/2009
Wages, Benefits and Overtime Compensation: Production and Incentive Schemes

WBOT.6 Employers shall not set production targets, piece rates or any other incentive or production system at such a level that workers need to work beyond normal working hours as set under the FLA Code, excluding overtime, in order to make the legal minimum wage or the prevailing industry wage, whichever is higher. (S)

**Noncompliance**

**Explanation:** Monitor walkthrough during lunch and break time revealed at least 20 employees doing voluntary work to achieve production bonuses. These periods are not computed as time worked. Employees want to reach the production goals to receive additional production bonuses. These activities are done on a voluntary basis.

Article 129 mandates the payment of wages in excess of the regular hours of work.

**Plan Of Action:** In-house auditor will conduct a follow-up visit on September 30. Specific steps the facility is taking to ensure employees are not working during breaks and lunch periods will be determined, as will whether or not they are always on the clock when working.

Provide name of person who is responsible for ensuring all employees leave their workstations and a written policy regarding this issue. 6 month follow up.

**Deadline Date:** 11/30/2008

**Supplier CAP Date:** 10/10/2008

**Action Taken:** During the September 30 HBI visit, the auditor determined that the plant had established a rule that all employees should take their rest periods. This rule was communicated through a memo posted inside the plant. Supervisors are responsible for ensuring employees do not work during their rest periods. There is a group of 8 supervisors. I took pictures of the posted memo and verified this point during the walkthrough.
Plan Complete: No

Plan Complete Date: 09/30/2008

Action Verified: No

Action Verified Text: Completed: Interviews and Sensory Inspection revealed that during rest periods and lunch times workers do not stay in their posts; however, August 2009 time records registered 8 cases of workers only taking 20 and 30 minutes of their lunchtime. The verification could not confirm if those workers returned to their posts to work.

Action Verified Date: 09/22/2009

Follow-Up Plan of Action: The Internal Workplace Policy, Article 39, Attachment 5, Numeral 21 implies workers must comply with the “obligation” to use their rest time, lunch or dinner. [External monitor’s name] considers it incorrect the way this issue is described in the Internal Workplace Policy, since it is a right and not an obligation.
Wages, Benefits and Overtime Compensation: Accurate Calculation and Recording of Wage Compensation

WBOT.17 All payments to workers, including hourly wages, piecework, benefits, bonuses, and other incentives shall be calculated and recorded accurately. (S)

Noncompliance

Explanation: Facility compensates workers for rest days based on the ordinary wage only. Although a legal requirement, this is not enforced by local Department of Labor.

Article 129 of the Guatemalan Labor Code: Payment for day of rest will be calculated as an average of the ordinary and extraordinary wages for the preceding week.

Plan Of Action: In-house auditor will follow up September 30 to review the records, ensuring employees are paid overtime wages when they work rest days and have already worked 40 hours that week. He will also ensure that in no instance are employees working more than 60 hours per week. Facility must determine a specific plan of action that ensures employees working on their normal day of rest receive the full OT wage, and still receive 1 day off in 7. 6 month follow up.

Deadline date: 11/30/2008

Supplier CAP: Clarification needed. We have successfully passed audits and never had an observation about [this].

Supplier CAP Date: 11/15/2008
During the September 30 HBI follow-up visit, it was determined that according to Guatemalan Labor Code Article 129, if employees work on national holidays and rest days, the plant should calculate the pay for that day, taking into account ordinary and extraordinary hours worked in the previous month, bi-week or week. Currently the plant calculates payment of national holidays and rest days by paying 150% of minimum wage, according to the procedure established for payment of OT in the labor code. The plant position is that if they change the way payment is calculated, labor issues would be caused and many employees will be affected. As most workers do not work OT, many of them could, in cases due to absenteeism or sick leave, earn less for working national holidays and rest days, causing labor issues. The plant needs to establish a measure where no one receives less payment than what is established by law. The plant will propose a measure and establish a compensation policy for working on holidays and rest days; this will be communicated to employees and should establish that no employee will earn less than what the law says. The plant will have this issue solved by November 15.

Plant provided evidence where this issue was corrected.

Plan Complete: No
Plan Complete Date: 11/30/2008
Action Verified: No
Action Verified Date: 09/22/2009

Completed: 2 workers of the 23 interviewed mentioned they worked one Sunday, which was remunerated as overtime; both workers were unaware of whether or not the payment was made correctly. [External monitor’s name] consulted management about the payment calculation for weekends and holidays; consequently, the factory confirmed that 4 persons worked the holiday of July 30. It was verified that the payment made to these workers was according to law.
Wages, Benefits and Overtime Compensation: Other - Wages, Benefits and Overtime Compensation

Other

Noncompliance

Explanation: Facility does not have a childcare facility. Although a legal requirement, this is not enforced by the local Department of Labor.

Guatemalan Labor Code, Article 155: Any employer with more than 30 female workers should provide a childcare facility for children 3 years old or younger.

Plan Of Action: [Monitor’s name] will follow up on September 30 and help the facility determine the value of the current childcare facilities the employees are using and a fair compensation for this benefit. Determine if there are any other childcare facilities within the industrial park, etc. Facility must provide a written plan outlining where the workers’ children over 3 stay currently and the benefit/compensation the facility can offer for not having a childcare facility on-site.

They may want to do a survey to:
1. Determine how many workers need a daycare;
2. How many have access to a daycare in their neighborhood;
3. How much they pay for the facility.

Deadline Date: 11/30/2008

Deadline Date:

Supplier CAP: Due to cultural customs, mothers choose to leave their children with grandparents, relatives or childcare facilities provided by the government near their neighborhoods.

Supplier CAP Date: 11/30/2008
Action Taken: During the September 30 HBI follow up, it was determined that the plant will make a survey of all female employees who have children under 3 years and are eligible for this compensation. They will also contact different factories in the zone where they are located. They will contact government agencies to look for childcare options for employees. If there is no feasibility for childcare facility, they will look for an alternate benefit that could compensate for the lack of this provision. The plant completed a survey and has less than 30 mothers with children under 3; therefore, this law does not apply to them. However, they have contacted many other companies in the sector to ask them if they would be willing to build a shared childcare facility for the industrial area.

Plan Complete: No

Plan Complete Date: 11/28/2008

Action Verified: No

Action Verified Text: Pending: The factory has not fulfilled Guatemalan Labor Code Article 155 and its Internal Workplace Policy, Article 40, Attachment 7, Numeral 6. However, the factory showed evidence of the survey made for its workers and government institutions. The factory has evidence of the letters sent to other factories in the zone on October 15, 2008, with only one feasible answer.

Three female workers of the 11 interviewed indicated they will not use the childcare according to the following:
1. Mobilization of their children in inappropriate morning and evening hours;
2. Security and transportation between their homes and the factory.

Action Verified Date: 09/22/2009
Forced Labor: Forced Overtime

F.14 The imposition of mandatory overtime beyond the limits set by the law, a freely negotiated collective bargaining agreement, and/or the FLA Code, in an environment where a worker is unable to leave the work premises, constitutes forced labor. (S)

Noncompliance

Explanation: Facility labor contracts display the hours of work for both diurnal and nocturnal shifts. Under the diurnal shift, the hours of work add up to 44 for the week. The night shift’s designated hours of work are from 6pm to 7am, Monday to Friday, which includes 25 hours of overtime. As per interviews, that the night shift must be worked complete and with overtime is understood as mandatory. As per management, this situation exists due to the non-existence of transportation at 3:00am, the end of the night shift.

Article 29 of the Labor Code, states that labor contracts should state the regular hours of work. As per facility labor contract, the hours of work include overtime.

Plan Of Action: In-house auditor will follow up on September 30 and determine if there are methods for alternating employee work shifts, such as one group works Monday -Thursday and another Tuesday-Friday, or if alternative transportation is available, so employees are not working over 60 hours a week. Also, review employment contracts for night workers and ensure there is no language that is interpreted so that the work is required to maintain employment (obtain copy). Conduct employee interviews during night shift to determine if employees feel this is voluntary or forced.

Deadline date: 11/30/2008

Deadline Date: 01/09/2009

Supplier CAP: Overtime is not mandatory and is not a practice of the facility. In the induction video for new employees, it is stated explicitly that overtime is voluntary; it is also stated in the Procedures Manual, which is given to every new employee. This appreciation from some employees might be caused by a misunderstanding. We will reinforce information to employees about this subject.

Supplier CAP Date: 11/15/2008
During September 30 HBI follow up, the issue here is not that night shift employees work over 60 hours a week; they work 12 hours a night from Monday to Friday, which adds up to exactly 60 hours. The plant provided evidence that there is clear communication that OT is voluntary, however, employees have a different perception. Labor contracts show that the night shift goes from 6pm to 7am; there is no indication that regular time is from 6pm to 12am and that overtime is from 12am to 7am. The plant will do a formal communication to employees about this matter and will modify work contracts.

Pending: The factory did not show evidence of a policy or procedure to reduce overtime. Management indicated that production orders have been reduced substantially this year; since July they have requested workers to perform overtime. However, the nocturnal shift has been permanent this year. Payrolls records do not show more than 60 hours worked during ordinary and extraordinary time. During the verification it was found that the computer system is designed not to register more than the required hours for both diurnal and nocturnal shifts. In reviewing the payroll records from March to August 2009, significant cases of workers leaving at 16:15 were found; the system only registered 8 ordinary hours and 2 extraordinary hours.

It is important to mention that since 2008, the factory has required all older and new workers to sign a letter described as “policy and agreement on overtime,” which establishes the acceptance of possible changes in their work shifts (from the diurnal shift to the nocturnal shift or vice versa.) In paragraphs 2 and 3 of the letter, the worker gives his whole consent and declaration accepting to work overtime, whether day or night, as required by the factory. Likewise, the worker is expressly aware that the maximum hours per week are 60, but declares that if at any time he exceeds the number of hours the work is entirely voluntary, the factory is not compelling him to perform it. Also, in the second paragraph, the worker expresses that its sole presence is a sign of voluntary acceptance to work the hours required. [External monitor’s name] considers the procedure illegal, as well as the worker’s signature in this document. The worker cannot sign a document in advance.

09/22/2009
Non-Discrimination: Other - Non-Discrimination

Other

Noncompliance

Explanation: There is no written policy for retrenchment in place. Facility was not aware of a need to have a written policy/procedure for retrenchment.

Plan Of Action: HBI in-house auditor will follow up September 30. In-house auditor will identify both the specific work the facility has created so far and the proposed deadline for completion and publication.

Deadline date: 11/30/2008

Deadline Date: 01/09/2009

Supplier CAP: Policy is being established.

Supplier CAP Date: 10/10/2008

Action Taken: The policy has been created and will be communicated to employees by October 10.

Plan Complete: No

Plan Complete Date:

Action Verified: No
Completed: The factory implemented a retrenchment policy and procedure since September 17, 2008, with supportive documentary evidence. However, the 23 interviewees were unaware or do not recall having received an induction or documentation. It is important to mention that the operations and management of [factory name] were replaced to [factory name] since December 2008. The General Manager gathered the workforce and informed them about the reason of replacement, ensuring continuity and seniority of their relationship and contracts. Likewise, the management delivered individual letters to all of the workforce on December 17. The letters ensured the fulfillment of all their rights due to the employment replacement, according to the Guatemalan Labor Code Article 23. This action is evidence of the retrenchment policy and procedure.

09/22/2009

Of September 22, [factory name] has generated 225 jobs. The employment replacement did not generate institutional or managerial crisis; although some workers chose to retire after December 17, there is no evidence of labor disputes.
**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:** The Participating Company (PC) has not communicated code obligations to the workforce (workers or supervisors). PC has not been able to achieve complete global coverage of its CSR program.

**Plan Of Action:** HBI will conduct vendor trainings in first quarter of 2009. Company auditor should ensure Generalized System of Preferences (GSP) posters are prominently in place in the local language.

**Deadline Date:** 2/15/2009

**Deadline Date:** 02/15/2009

**Supplier CAP:**

**Supplier CAP Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

**Action Verified:** No

**Action Verified Text:** Pending: The management mentioned they only received by email 4 posters of the Global Norm for Supplier of HBI, during sensory inspection [external monitor’s name] found only 1 poster in Facility #4.

**Action Verified Date:** 09/22/2009
**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:** The workers have never received training on the Company’s Code of Conduct. PC has not been able to achieve complete global coverage of its CSR program.

**Plan Of Action:**

HBI will conduct vendor trainings in first quarter of 2009.

**Deadline Date:** 02/15/2009

**Supplier CAP:**

**Supplier CAP Date:**

**Action Taken:**

Plan Complete: No

**Action Verified:**

No

**Action Verified Text:** Pending: Management reveals not having received any training of HBI.

**Action Verified Date:** 09/22/2009
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: PC has not established an anonymous complaint mechanism for workers to contact them. PC has not included any method of communication (e.g., hotline) in the Code of Conduct (CoC) for workers to communicate directly to them.

Plan Of Action: This will be addressed from HBI Corporate. There will not be a hotline to our vendor base, as there are too many contractors and we do not have the resources to manage this at this time.

Deadline Date:

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Date: 09/22/2009

Action Verified Text: Pending: The management indicated not having received communication of the corrective action plan of the brand or information on the procedures for complaints; therefore, workers are unaware of this proceeding.
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. Evacuation passageway is blocked by boxes. (Building #4)
2. Exit signs at Buildings #1 and #4 do not have an electrical mechanism to turn on during an electrical failure.
3. Evacuation plan missing. No designated personnel or plan to check for safety standards.

Chapter V - Health & Safety Standards. - Article 197

Plan Of Action: HBI in-house auditor will follow up on September 30. Determine if properly trained person is in place to monitor these safety items on a regular basis.

Deadline date: 11/30/2008

Deadline Date: 11/30/2008

Supplier CAP: Outline specific actions that person in engineering will conduct to ensure safety continues.

Supplier CAP Date: 10/10/2008
Action Taken: During the September 30 HBI visit, it was confirmed that the automatic turn-on lights, signs and evacuation plans have been in place. Blocked areas were cleared during the audit. A person from the Engineering Department has been already designated to check safety standards. There has been an official designation of a safety coordinator, which will be the production manager. The safety coordinator’s functions, already written down and communicated, will be emergency drill management, fire extinguisher management, safe management of equipment, control of safety rules, temperature monitoring and plant housekeeping. The evacuation plan has been installed. No aisles were found blocked in Building #4, an aisle was found blocked in Building #3 by a bag of socks and emergency exit signs have not been installed. Pictures attached and a memo regarding the designation of a safety coordinator. Emergency exit signs will be installed by October 10. Plant provided evidence where this issue was corrected.

Plan Complete: No

Plan Complete Date: 11/28/2008

Action Verified: No

Action Verified Date: 09/22/2009

Action Verified Text: Ongoing:

1. Evacuation passageways are blocked in Buildings #3 and #4.

2. Exit signs and lights are in unsuitable places.

3. Evacuation plans are located in unsuitable places. Evacuation signs are on the floor of the facilities and have deteriorated or are not visible.

The factory has Health and Safety policy and procedures, in addition to a first aid squad. The 23 interviewees know this squad either by name or by their special badges. The factory has a Health and Safety Committee which has met twice this year; they documented the industrial accidents, but have neither a preventive program nor corrective actions. The Health and Safety Committee minutes do not have appropriate procedures or corrective actions for the workplace accidents. In 2009, the Committee recorded and documented 4 workplace accidents. Management has, in its induction program, information about the use and handling of the machinery; however, the factory does not have a permanent training program of Health and Safety.
Follow-Up Plan of Action: [External factory name] considers that the factory needs a training program of Health and Safety in order to minimize and/or eradicate workplace accidents, as well as for the appropriate use of the industrial equipment.

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)

Uncorroborated Evidence of Noncompliance
Explanation: Employees (9) and supervisors (2) mentioned that medicine for headaches and stomachaches are sometimes not available. During the visit, monitor checked 2 first aid kits which were found to be fully stocked. No designated personnel or plan to check for safety standards.

Chapter V - Health & Safety Standards. - Article 197

Plan Of Action:

Deadline Date:

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No
Health and Safety: Ventilation/Electrical/Facility Installation and Maintenance

H&S.17 All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and in such a manner as to prevent or minimize hazardous conditions to workers in the facility. (S)

Noncompliance

Explanation:

1. Monitors felt extremely high temperatures at the facility during the visit (not the hot summer season). Over 90% of employees interviewed complained that during the summer the heat becomes unbearable.

2. Electrical circuit boxes throughout the facility need to be labeled and the unsealed openings need to be covered. No designated personnel or plan to check for safety standards.

Chapter V - Health & Safety Standards. - Article 197

Plan Of Action:

HBI in-house auditor followed up on September 30. The compliance manager had asked the facility to begin monitoring both the inside and outside temperature from the date of conference call until the follow-up visit.

Deadline Date: 11/30/2008
Supplier CAP: Facility took actions about the heat previously in order to minimize heat conditions for those machines where it was possible. Provide a copy of the records that monitor indoor and outdoor temperatures. The plant has already installed thermometers to begin monitoring the plant’s temperature. At the moment of the visit, no thermometer showed temperatures higher than 29°C. The plant needs to establish an action plan in case temperatures rise above this temperature; this is most probable during the summer months. All the circuit boxes throughout the facility had their empty spaces sealed; however, they need to finish labeling them. The labeling will end by October 10.

Supplier CAP Date: 10/10/2008

Action Taken: HBI auditor confirmed electrical issues were already corrected. A person from the Engineering Department has already been designated to check the safety standards. Plant provided evidence where this issue was corrected.

Plan Complete: No

Plan Complete Date: 11/28/2008

Action Verified: No

Action Verified Text: Completed:
1. The factory installed a thermometer. Documentary evidence during the September 22, 2009 verification establishes that during the morning in the rainy season the factory had a temperature of 33°C - 3°C. The procedure to record a daily temperature in the factory is inappropriate.

2. Electrical circuit boxes have been labeled, but are not well protected.

Action Verified Date: 09/22/2009
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:

1. Lift truck is missing stop lights, extinguisher and a warning sound during operations.
2. Oil residues resulting from machine maintenance are disposed in regular trash cans and not handled by specialized toxic disposal entities.

Chapter V - Health & Safety Standards. - Article 197

Plan Of Action:

In-house auditor to follow up on September 30 and review the progress on the oil disposal policy. Also, see what type of training the mechanics need on environmental policies, etc.

Deadline date: 11/30/2008

Deadline Date:

11/30/2008

Supplier CAP:

Oil disposal policy is being established. Provide copy.

Supplier CAP Date:

10/10/2008

Action Taken:

In-house auditor confirmed that the truck lift issues were already solved. The forklift has all of its safety equipment installed. Pictures will be provided by the end of the week. The used oil is now been stored in a labeled container and will be sent to a recycling company; however, a policy needs to be written and the mechanics need to be trained in this policy. All affected employees were trained, and the plant provided evidence showing that this issue was corrected.

Plan Complete:

No

Plan Complete Date:

12/10/2008
The Health and Safety policy and procedure came into effect October 10, 2008.

1. The lift trucks have stop lights, as well as warning sounds and a fire extinguisher.

2. Oil residues are collected properly and deposited in a special and labeled container; the same oil is used again for maintenance. The new and used oil deposits are found in a restrictive area of Building #4, and are under the responsibility of one person.

Health and Safety: Proper Use of Machinery

H&S.19 Employers shall only use positive incentives (risk awareness training, demonstration of proper use, awards, bonuses, etc.) to ensure workers use machinery, equipment and tools properly and safely. Workers shall not suffer any negative consequences for refusing to work with machinery, equipment or tools that are not properly guarded or reasonably considered unsafe. (P)

Noncompliance

Explanation: Two sharp grinder machines without safety guards are located in the passageway. (Shipping area) No designated personnel or plan to check for safety standards.

Chapter V - Health & Safety Standards. - Article 197

Plan Of Action: In-house auditor to follow up on September 30.

Deadline Date: 11/30/2008

Supplier CAP: Outline specific actions that a person from engineering will conduct to ensure safety continues.
Supplier CAP Date: 09/30/2008

Action Taken: Sharp grinder machine has been moved to another place far from the passageway, and has been restricted to use by authorized personnel only. A person from the Engineering Department has been already designated to check safety standards. The sharp grinder has been moved and personal protective equipment (PPE) provided to operate this machine.

Plan Complete: No

Plan Complete Date: 09/30/2008

Action Verified: No

Action Verified Date: 09/22/2009

Ongoing:

There is a Health and Safety policy and procedure. The grinder machines have been moved to the maintenance warehouse and are under the responsibility of one person. There is evidence that the grinder machines still do not have protection.
Health and Safety: Bodily Strain

H&S.20 Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains. Employers shall train workers in proper lifting techniques and items such as belts shall be provided. (S)

Noncompliance

Explanation: Floor mats need to be provided to workers who stand, especially pregnant employees. (Throughout facility) No ergonomic program in place.

Chapter V - Health & Safety Standards. - Article 197

Plan Of Action: In-house auditor will follow up on September 30, 2008.

Deadline Date: 09/30/2008

Supplier CAP: Floor mats are in the process of being purchased and will be placed in the workplaces that need them. Will provide photos by the end of the week.

Supplier CAP Date: 09/30/2008

Action Taken: Anti-fatigue mats have been purchased and provided.

Plan Complete: No

Plan Complete Date: 09/30/2008

Action Verified: No

Action Verified Text: Ongoing: Workers do have floor mats; however, there is no documentary evidence of an ergonomic training program and the policies do not establish an appropriate procedure. According to the Safety and Hygiene Committee minutes from April 3 and August 3, 2009, workplace accidents have been recorded in relation to ergonomic issues.
Health and Safety: Toilets
H&S.23 Employers shall establish the number of toilets required under applicable laws within reasonable distance of the workplace. (S)

Noncompliance

Explanation: Toilet paper was not available. (Building #1) Lack of constant monitoring.

Chapter V - Health & Safety Standards. - Article 197

Plan Of Action: In-house auditor will follow up on September 30, 2008 and monitor during visit at the end of November.

Deadline Date: 11/30/2008

Supplier CAP: Provide photos and name of person responsible.

Supplier CAP Date: 09/30/2008

Action Taken: Monitoring has been reinforced and toilet paper is available; during the time of the visit, there were no toilets without paper. The plant has established a procedure to ensure toilet paper is always available. Attached copy of this control. Control procedure was established and the plant provided evidence showing that this issue has been corrected.

Plan Complete: No

Plan Complete Date: 11/28/2008
The factory established a Safety and Hygiene policy and procedures. They implemented policy and procedures to deliver toilet paper to workers on October 10, 2008 and February 27, 2009, respectively. In addition, the Internal Workplace Policy, Article 44, Numeral H establishes the number of toilets necessary for the number of men and women working in the factory. The factory meets the requirements established in its Internal Workplace Policy.

**Health and Safety: Toilets/Restrictions**

H&S.24 Employers shall not place any undue restrictions on toilet use in terms of time and frequency. (P)

**Noncompliance**

**Explanation:** Monitors observed that restroom was locked. Employees complained that on occasion, the designated person with the keys is not available. As per management, this is done to control misuse - related to cleanliness of restroom by employees.

Chapter V - Health & Safety Standards. - Article 197

**Plan Of Action:** In-house auditor follow up September 30. Remind the facility that the solution is not to lock the employees out, but to enforce employees’ proper respect of restroom use, while monitoring conditions and the employees who abuse them.

Deadline date: 11/30/2008

**Deadline Date:** 11/30/2008

**Supplier CAP:** The locks were requested by employees due the misuse of restrooms by other workmates. Employees suggested the usage of locks and the conformation of groups designated to each restroom. Locks will be removed.
Supplier CAP 09/30/2008

Action Taken: Locks have been removed. No toilets were found with locks. Pictures will be provided by the end of the week.

Plan Complete: No

Plan Complete Date: 09/30/2008

Action Verified: No

Action Verified Text: Completed:
The verification confirmed that restrooms were clean (both male and female); all workers have toilet paper as established in its Internal Workplace Policy. Interviews confirmed that there is no prohibition or impediment regarding using or closing the restrooms.

Action Verified Date: 09/22/2009

Follow-Up Plan of Action: The General Policy of Safety and Hygiene at Workplace, Article 97 establishes the number of toilets and lavatories regarding the number of workers. Nevertheless, in [factory name’s] case, the number of women’s toilets exceeds the required amount, while the number of men’s toilets meets the requirement. The factory does not have a lavatory as established in the policy.
Health and Safety: Other - Health and Safety

Other

**Noncompliance**

**Explanation:** There is insufficient seating for the number of employees taking lunch at the same time. Facility provides two separate times for lunch for a total of approximately 200 employees, but there are only 40 sitting spaces available at any given time. No internal evaluation/interviewed performed to check for employees’ concerns.

Chapter V - Health & Safety Standards. - Article 197

**Plan Of Action:** In-house auditor follow up September 30 to determine actual situation. And then make suggestions ensuring there is sufficient room for employees in bad weather, etc., so that all employees have the ability to sit in covered areas if necessary.

**Deadline date:** 11/30/2008

**Supplier CAP Date:** 10/15/2008

**Action Taken:** In-house auditor discussed with the facility, and the plant will purchase more wooden seats, so a total of 144 employees will fit inside the cafeteria. The benches will be purchased by October 3. Tables and benches were purchased, and the plant provided evidence showing that this issue was corrected.

**Plan Complete Date:** 11/28/2008

**Action Verified:** No
**Action Verified Text:**

Completed: The factory has availability for 125 workers for each lunch and rest periods. The factory bought 60 more benches and chairs.

**Action Verified Date:**

09/22/2009

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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:** The facility’s recording system at present does not allow workers to log their hours of work if work is performed during the day of rest (Sunday). The security guard maintains a list of attendance and this information is provided to HR department for Sunday attendance. Hours of work during the rest day are not added to the overtime column on the payroll ledger; it is added to a column selected for bonus/incentives (monetary amounts only). This practice does not properly reflect all hours worked during weeks when a Sunday is worked. As per facility, the system does not allow Sunday (day of rest) log-in; the facility is changing the system to allow all working hours logged.

Article 123 of the Guatemalan Labor Code: The employer will register in the payroll, hours and earnings related to overtime work.

**Plan Of Action:** In-house auditor will follow up on September 30. 6 month follow up.

**Deadline Date:** 11/30/2008
Supplier CAP: Facility is changing the system to allow all working hours to be logged. We will comply. Provide a copy of the policy and post the policy at the time clock for all employees to access.

Supplier CAP Date: 11/15/2008

Action Taken: In-house auditor confirmed that the plant is working on payroll system modifications. The plant is closed now until 7:00am; there was a memo communicating this. Plant provided evidence showing that this issue was corrected.

Plan Complete: No

Plan Complete Date: 11/28/2008

Action Verified: No

Action Verified Date: 

Action Verified Text: The factory fulfills the implementation of wages payment and overtime policies on October 16, 2008. However, the factory fails to register overtime on Sundays and holidays on the payrolls. When consulting the management, they confirmed paying overtime, but this benefit is registered as a “bonus” on the payroll. Failure to include regular and supplemental wages on payrolls directly affects the calculation of economic and social benefits such as, vacations, severance and social security coverage. It was verified the calculation of 4 workers that worked a holiday (June 30, 2009) and the payment system is correct according to law. The explanation given by the factory does not exempt the responsibility to fulfill this benefit.

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:** For night shifts, during the high season (November and December); sometimes during special needs (last one occurred two weeks ago); and whenever a Sunday is worked, the hours of work will exceed 66 hours per week. This exceeds FLA hours of work limitations. Facility has large orders for short periods of time. It is difficult to hire temporary workers for a two-month period and then later release them. It takes time to train workers to understand the clients’ needs. FLA Benchmark of no more than 60 hours of work (regular and overtime) per week.

**Plan Of Action:** In-house auditor will follow up on September 30. Determine how often this occurs and if alternating shifts, as mentioned above, will eliminate this problem.

**Deadline Date:** 11/30/2008

**Supplier CAP Date:**

**Action Taken:** In-house auditor confirmed that the plant has already defined their extraordinary business circumstances; in this policy, they have established the procedures to perform OT. However, there is no evidence in the plant showing how often this happens. The plant needs to demonstrate that work performed under these circumstances is not done very often. Since the audit, the plant has been communicating this policy to employees, but there has been no need to apply it. Plant provided evidence showing that this issue was corrected.

**Plan Complete Date:** 09/30/2008
The factory did not show evidence of a policy or procedure to reduce overtime. Management indicated that production orders have been reduced substantially this year, since July, they have requested workers to perform overtime. However, night shift has been permanent this year. Payrolls records do not show more than 60 hours worked during ordinary and extraordinary times. During the verification, it was found that the computer system is designed not to register more than the required number of hours for both diurnal and nocturnal shifts. In reviewing payroll records from March to August 2009, significant cases of workers leaving at 16:15 were found; the system only registered 8 ordinary hours and 2 extraordinary hours.

It is important to mention that since 2008, the factory has required all older and new workers to sign a letter described as “policy and agreement on overtime,” that establishes the acceptance of possible changes in their work shifts (from diurnal shift to nocturnal shift or vice versa). In paragraphs 2 and 3, the worker gives his whole consent and declaration to accept overtime work, whether day or night overtime, required by the factory. Likewise, the worker is expressly aware that the maximum hours per week are 60, but declares that if at any time he exceeds the number of hours, they are entirely voluntary and the factory is not compelling him to perform them. As well, in the second paragraph, the worker expresses that its sole presence is a sign of voluntary acceptance to work the hours required. [External monitor’s name] considers the procedure illegal, as well as the worker’s signature in this document. The worker cannot sign a document in advance.

09/22/2009
**Hours of Work: Calculation of Absences**

HOW.21 Absences from work for reasons beyond the control of workers, such as sick leave or periods during which factory operations are suspended, shall not be counted as annual leave nor shall they be deducted from calculations concerning length of service, unless specified differently under local laws, regulations and procedures. (S)

**Noncompliance**

**Explanation:** Employees are required to arrive 5 minutes before the beginning of their work shift, otherwise, they will not be allowed in or paid for that day. Facility wants to ensure employees are at their stations on time, as the facility reports too many latecomers.

Article 129 mandates wage payments in excess of the regular hours of work.

**Plan Of Action:** In-house auditor follow up on September 30, and continuous monitoring on all future visits.

Deadline date: 11/30/2008

**Supplier CAP:** Provide a copy of the written policy posted at time clock. The plant is closed now until 7:00am, with a memo communicating this. Copy of the memo will be attached by the end of the week.

**Supplier CAP Date:**

**Action Taken:** In-house auditor confirmed that the time log is controlled by a computer; the computer makes all records available by a keystroke. Employees are now allowed to arrive at the pre-established time of attendance.

**Plan Complete:** No

Plan Complete Date: 09/30/2008

**Action Verified:** No
Ongoing:
The audit could not verify the level of compliance; in the verification of the records of the 23 interviewed, it was found that 13 workers reported absences, of which only 3 have wage deductions. The audit could not establish the reason for the absences. Management interview indicated that the factory does not allow entrance to the workers after 7:00 a.m.

Action Verified Date: 09/22/2009