

Guidelines on Employment Standards



... whereas conditions of labour exist involving such injustice, hardship and privation
to large numbers of people as to produce unrest so great...
and an improvement of those conditions is urgently required;
as for example, by the regulation of the hours of work...
the provision of an adequate living wage, the protection of workers against sickness,
disease and injury...
the protection of children, young persons and women...
protection of the interests of workers when employed in countries other than their
own, recognition of the principle of equal remuneration for work of equal value,
recognition of the principle of freedom of association...

Preamble of the Constitution of the International Labour Organisation

OUR WORKPLACE STANDARDS

PERFORMANCE. PASSION. INTEGRITY. DIVERSITY

These are the core values found in sport. Sport is the soul of the adidas Group. We measure ourselves by these values, and we measure our business partners in the same way.

Consistent with these values, we expect our partners – contractors, subcontractors, suppliers, and others – to conduct themselves with the utmost fairness, honesty and responsibility in all aspects of their business.

We use the adidas Group Workplace Standards as a tool to assist us in selecting and retaining business partners who follow business practices consistent with our policies and values. As a set of guiding principles, the Workplace Standards also help identify potential problems so that we can work with our business partners to address issues of concern as they arise. Business partners will develop and implement action plans for continuous improvement in factory working conditions. Progress against these plans will be monitored by the business partners themselves, our internal monitoring team and external independent monitors.

Specifically, we expect our business partners to operate workplaces where the following standards and practices are implemented:

GENERAL PRINCIPLE

Business partners must comply fully with all legal requirements relevant to the conduct of their businesses.

EMPLOYMENT STANDARDS

Forced Labour

Business partners must not use forced labour, whether in the form of prison labour, indentured labour, bonded labour or otherwise. No employee may be compelled to work through force or intimidation of any form, or as a means of political coercion or as punishment for holding or expressing political views.

Child Labour

Business partners must not employ children who are less than 15 years old, or less than the age for completing compulsory education in the country of manufacture where such age is higher than 15.

Discrimination

Business partners must not discriminate in recruitment and employment practices. Decisions about hiring, salary, benefits, training opportunities, work assignments, advancement, discipline and termination must be based solely on ability to perform the job, rather than on the basis of personal characteristics or beliefs, such as race, national origin, gender, religion, age, disability, marital status, parental status, association membership, sexual orientation or political opinion. Additionally, business partners must implement effective measures to protect migrant employees against any form of discrimination and to provide appropriate support services that reflect their special status.

Wages & Benefits

Wages must equal or exceed the minimum wage required by law or the prevailing industry wage, whichever is higher, and legally mandated benefits must be provided. In addition to compensation for regular working hours, employees must be compensated for overtime hours at the rate legally required in the country of manufacture or, in those countries where such laws do not exist, at a rate exceeding the regular hourly compensation rate. Wages are essential for meeting the basic needs of employees and reasonable savings and expenditure. We seek business partners who progressively raise employee living standards through improved wage systems, benefits, welfare programmes and other services, which enhance quality of life.

Working Hours

Employees must not be required, except in extraordinary circumstances, to work more than 60 hours per week including overtime or the local legal requirement, whichever is less. Employees must be allowed at least 24 consecutive hours rest within every seven-day period, and must receive paid annual leave.

Freedom of Association & Collective Bargaining

Business partners must recognise and respect the right of employees to join and organise associations of their own choosing and to bargain collectively. Business partners must develop and fully implement mechanisms for resolving industrial disputes, including employee grievances, and ensure effective communication with employees and their representatives.

Disciplinary Practices

Employees must be treated with respect and dignity. No employee may be subjected to any physical, sexual, psychological or verbal harassment or abuse, or to fines or penalties as a disciplinary measure. Business partners must publicise and enforce a non-retaliation policy that permits factory employees to express their concerns about workplace conditions directly to factory management or to us without fear of retribution or losing their jobs.

HEALTH AND SAFETY

A safe and hygienic working environment must be provided, and occupational health and safety practices which prevent accidents and injury must be promoted. This includes protection from fire, accidents and toxic substances. Lighting, heating and ventilation systems must be adequate. Employees must have access at all times to sanitary facilities which should be adequate and clean. Business partners must have health and safety policies which are clearly communicated to employees. Where residential facilities are provided to employees, the same standards apply.

ENVIRONMENTAL REQUIREMENTS

Business partners must make progressive improvement in environmental performance in their own operations and require the same of their partners, suppliers and subcontractors. This includes: integrating principles of sustainability into business decisions; responsible use of natural resources; adoption of cleaner production and pollution prevention measures; and designing and developing products, materials and technologies according to the principles of sustainability.

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Section 1 – Introduction

Welcome to the 2nd Edition of the adidas Group Guidelines on Employment Standards. It has been 10 years since we started conducting labour audits of our business partners' factories, and almost 8 years since we released the first edition of these Guidelines. We continue to see how challenging the implementation of the Employment Standards in factories can be. Key suppliers have developed their own internal monitoring teams and established the foundation for effective human resources management within their factories. However, many suppliers continue to struggle with basic wages and working hour problems. While compliance with local laws and the adidas Group Workplace Standards is the primary goal, we also expect our business partners to manage emerging issues and trends, such as privacy rights in the workplace and the growing needs of migrant workers. In short, the world of compliance has become more complex.

While the Workplace Standards are based on international law, they do not say anything practical about how they should be made real in a factory. These Guidelines are intended to provide business partners with practical tips for managing compliance labour issues and solutions to some of the more complex employment problems. We want to communicate what we have learned from you, our Business Partners and other stakeholders in factories around the world, from Argentina to Vietnam, and from Albania to the United States. The major differences between the first and second edition are set out below, but the main purpose of the Guidelines remains the same: to improve factories' conditions by helping managers understand and take action on each of the Standards.

1.1 Key Changes to the Guidelines on Employment Standards

Since the first edition of the Guidelines was released, the adidas SOE and the Reebok Human Rights programmes merged. We agreed at the time of integration to adopt a 'best practice' position, and the result was the Workplace Standards, replacing and merging both companies' codes of conduct. We have also seen that many of the recommendations we provided for 'simple' labour problems 5-10 years ago, are no longer sufficient guidance for suppliers, dealing with all the effects of globalisation.

In this edition, you will find that the key "dos" and "don'ts" in relation to the seven Employment Standards remain the same. In most cases, we have simply updated the case studies to reflect more recent practices at the factory level, and have provided more relevant sample documentation. However, we have added detailed guidance on:

- Child Care Facilities & Juvenile Labour
- Medical Testing & Health Surveys
- Documenting Wage Payments & Back-Payments
- Deductions & Penalties
- Maternity Leave
- Annual Leave
- Clarification on Extraordinary Circumstances, and scheduling production around business problems, such as power shortages
- Time recording requirements
- Suggestion Boxes
- Sexual Harassment
- Non-Retaliation Policy

- Use and management of Employment Agencies, Contract Workers, and Trainees
- Migrant Workers
- Privacy issues, for example use of CCTV, Body Searches, Finger Printing & Scanning
- Industrial Relations issues - Worker Management Committees, and Strike Management.

1.2 Group Values

As we said in the first edition, the Workplace Standards state for the adidas Group, for each person who works for the Group, and for the people who buy our products, how we expect our products to be made. In that sense, the Workplace Standards are a practical expression of the values of the Group. The values come from sport and the heart of the Group is sport. If our values are not real in the factories of our business partners, then the values, which inspire people globally, lose meaning. The Standards seek to make real the values of the company in the factories of our business partners – contractors, subcontractors, suppliers, and others.

Beyond the values, we also see strong evidence throughout the supply chain that improved compliance, coupled with strong and healthy management-worker relations, results in improved business performance. Those factories that have internalised the Standards by recruiting the right people to develop management systems and improve compliance performance have been rewarded by better KPI ratings. This ultimately impacts decisions made by adidas Group Sourcing and Operations. In short, compliance with the Workplace Standards is good for business, good for workers, and good for our brands.

1.3 The Social & Environmental Programme

Over the last 10 years, in the same way that we have pushed suppliers toward 'continuous improvement', we have made the same demand of ourselves. The SEA programme has grown, has become more structured, and we are making improvements every year, even as business decisions create new challenges and the Group's needs change. One major improvement has been the release of standardised Guidelines and SOPs for both internal Sourcing and Operations colleagues as well as for our business partners.

These Guidelines on Employment Standards, together with the Guidelines on Health & Safety and the Guide on Best Environmental Practice, remain our essential guidance for business partners. In the future, in relation to these Employment Guidelines, we anticipate the inclusion of another section dealing specifically with human resources management requirements. Since 2004, we have been working together with other brands on the development and roll-out of a Human Resource Management System (HRMS) programme, aimed at establishing sustainable systems and solutions for proper labour force management at the factory level. We look forward to publishing clear guidance and practical tips on HRMS implementation which will further support improved compliance with labour laws and the Employment Guidelines.

10 years on, we are driven by the same goal: to be the leader in the global sporting goods industry. This can only be made possible if, together, we rise to the challenge of managing, supporting and developing the labour force that makes our product, thereby ensuring a future for us all.

Section 2 – Roadmap: How to Use These Guidelines

The Guidelines on Employment Standards have been written for our business partners.

An introductory section sets out the legal basis for each of the Employment Standards, which are based on international laws and covenants. Following that, the General Principle and each of the seven Employment Standards are set out in separate chapters. Each chapter contains individual subsections which provide:

- The common terms which apply to each Standard
- A list of the legal documents which form the basis of the Standard
- Examples of non-compliance
- Suggested solutions for common problems, based on the experiences of partner factories, to achieve compliance
- Samples of factory documentation and systems flow-charts which assist factories to comply with the Standard
- The relevant factory documents that are used to determine compliance
- Compliance lessons through 'real life' examples, case studies that identify what factories have done wrong, what they have done right, and what can be done to achieve a 'best practice' in relation to the Standard.

The final chapters of these Guidelines include guidance notes on labour issues which have assumed special importance in recent years, covering four key areas:

1. Recruitment and Employment Status
2. Privacy Issues
3. Industrial Relations
4. Management of Layoffs and Redundancies

Section 3 – Legal Basis for the Employment Standards

3.1 General Principle

3.1.1 International vs. Local

Fundamental human rights cross national and cultural boundaries. The Workplace Standards are based on agreements which the international community has endorsed to protect and promote the rights of people at work, regardless of their nationality or culture. At the same time, the General Principle of the Workplace Standards respects local laws and regulations which are necessary to the conduct of our partners' business operations.

3.1.2 Rights and Obligations

There is a general legal concept that rights have corresponding obligations. Under the Workplace Standards, this means that business partners who enjoy comparative business advantages or legal rights must observe their legal obligations. For example, in relation to employment, a low labour cost advantage is accompanied by the obligation to protect and develop the workforce. The countries in which the adidas Group does business have established legal structures, law making bodies and a variety of laws. These are necessary to protect and develop the human resources of the country, as well as regulate the activities of both local and foreign investment businesses. Therefore, our partners have an obligation to follow local laws and regulations.

3.1.3 Good Business Sense

Under the SEA Programme, there is a direct relationship between commercial success and support for the local institutions which assist business partners. Local institutions include many of our stakeholders, such as government departments and local authorities, lawmaking bodies, non-government and charitable organisations, consumer groups, and private industry associations. The growth of both the adidas Group and our partners is linked directly to the development of the economies and societies where we choose to do business. This is the basis of corporate social responsibility. In this sense, compliance with local laws is fundamental. Respect for, and compliance with, the systems and institutions of the countries in which we do business is not just the General Principle of the Workplace Standards, it is in the best commercial interests of our business partners.

3.1.4 Best Practice Guidelines

It is not possible in these Guidelines to set out all the legal requirements relevant to the conduct of our partners' operations, for each of the countries in which the adidas Group does business. Knowing the local laws of the country of manufacture is the basic legal obligation of employers and business operators. Supporting the local institutions which administer the local laws is also a basic obligation. These basic obligations are reflected in a variety of international documents, including:

- The human rights documents of the United Nations
- The conventions and recommendations of the International Labour Organization
- The principles of international human rights organisations, such as Amnesty International
- Those guidelines established by international trade and commerce bodies, such as the OECD, examples of which are set out below.

Universal Declaration of Human Rights 1948

...to the end that every individual and every organ of society... shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of member States themselves and among the peoples of territories under their jurisdiction.

ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy 2000

Multinational corporations... can help develop countries both economically and socially. They can also abuse this power by operating in a way that conflicts with the workers' and country's best interests.

Human Rights Principles for Companies, Amnesty International 1998

Multinational companies have a responsibility to contribute to the promotion and protection of human rights. In an increasingly globalised world economy, their decisions and actions impact directly on governmental policies and on the enjoyment of human rights...

The performance of a company's contractors, suppliers and partners (whether government, governmental agencies or otherwise) is perceived to reflect on the performance of the company. The general public does not draw a line between them. It is therefore in companies' own interests to promote similar standards through all third parties who act with them or on their behalf.

The OECD Guidelines for Multinational Enterprises 2000

Every state has the right to prescribe the conditions under which multinational enterprises operate within its national jurisdiction subject to international law and to the international agreements to which it has subscribed.

3.1.5 The Highest Standard

As stated above, the adidas Group Workplace Standards are based on international laws and form a company specific set of standards with which our business partners must comply. At the same time, the Workplace Standards require strict compliance with local laws and regulations. In those rare cases where there is conflict between the Employment Standards and local legislation, business partners should apply the higher standard.

3.2 Forced Labour

3.2.1 Fundamental Laws

Despite the introduction of the ILO *Forced Labour Convention* 1930 which outlawed "all work or service which is exacted from any person under the menace of penalty and for which the said person has not offered himself voluntarily", forced labour has continued to take a variety of complex forms. The *International Covenant on Civil and Political Rights* 1966 prohibits slavery, forced labour and unlawful detention, and promotes freedom of movement. Additionally, the ILO *Abolition of Forced Labour Convention* 1957 prohibits the use of any form of forced or compulsory labour as a means of:

- Political coercion or education, or punishment for the expression of political or ideological views;
- Workforce mobilisation for the purpose of economic development;
- Labour discipline;
- Punishment for participation in strikes; or
- Racial, social, national or religious discrimination.

Forced labour is still common throughout the regions where the adidas Group does business. Additionally, the forms of coercion or exploitation of workers, which are set out below, have resulted in forced labour situations and are prohibited by a number of international conventions and other human rights documents.

3.2.2 Controlling Wage Payments

- Trafficking of migrant workers by private or governmental recruitment agencies within and between countries often involves forced savings schemes or withholding of wages by employers.
- Excessive recruitment or training fees can place employees in the financial debt of employers or agencies, and often require months or years to repay.

International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families 1990

Considering the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they may encounter arising from their presence in the State of employment...

No migrant worker or member of his or her family shall be required to perform forced or compulsory labour... Migrant workers shall have the right to transfer their earnings and savings, in particular those funds necessary for the support of their families.

3.2.3 Restricting Freedom of Movement and Unlawful Detention

- Limiting access to bathroom facilities or fresh drinking water is a restriction on freedom of movement and denies the basic needs of workers.
- Restricting employees from exiting production areas or the factory grounds is a form of unlawful detention and forced labour.
- Preventing migrant workers from leaving the area or country by retaining personal identification and travel documents or work permits is a form of forced labour.

Universal Declaration of Human Rights 1948

Everyone has the right to life, liberty and security...

No-one shall be held in slavery or servitude...

Everyone has the right to freedom of movement...

Everyone has the right to leave any country, including his own, and to return to his country.

International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families 1990

It shall be unlawful for anyone... to confiscate or destroy identity documents, documents authorising entry or stay, residence or establishment in the national territory or work permits.

3.2.4 Improper Use of Force

- The use of military or other public security forces to guard the factory is considered an improper use of force and may constitute forced labour.
- In some cases, information regarding employees which has been given to the police or other security forces has been used to target individuals for arrest. Where the arrest is not valid, the factory has helped to facilitate the improper use of force and unlawful detention.

United Nations (UN) Code of Conduct for Law Enforcement Officials 1979

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons...

Law enforcement officials may use force only when necessary and to the extent required for the performance of their duty.

International Covenant on Civil and Political Rights 1966

No-one shall be subject to arbitrary arrest or detention.

3.3 Child Labour

3.3.1 Setting the International Standard

The *Convention on the Rights of the Child* 1989 seeks to protect the rights and interests of children in respect of their education and health. There are two fundamental ILO conventions dealing with child labour. The ILO *Minimum Age Convention* 1973 prohibits child labour and provides a minimum age for work which corresponds with the age for completing compulsory schooling. The *Convention on the Worst Forms of Child Labour* 1999 was unanimously adopted by 174 nations and, subsequently, achieved the fastest rate of ratification in ILO history. In addition to these conventions are other ILO documents dealing with shift work, the *Night Work of Young Persons (Industry) Convention* 1919, and regular health checks, the *Medical Examination of Young Persons (Industry) Convention* 1946.

Convention of the Rights of the Child 1989

In all actions concerning children... the best interests of the child shall be a primary consideration...

States Parties shall recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

International Convention on Civil and Political Rights 1966

Every child shall have without discrimination to as to race, colour, sex, language, religion, national or social origin, property of birth, the right to such measures of protection as are required by his status as a minor on the part of his family, society and the State.

3.3.2 Dealing with Child Labour

Based on the international standards, there are five major approaches to dealing with child labour:

1. Setting a minimum age for work – 15, or for those countries which still have relatively underdeveloped economic and education systems, 14.
2. Suppression of the worst forms of abuse of children by employers – slavery, armed conflict, pornographic performances, production of illegal drugs and any work likely to harm the health, safety or morals of children.
3. Prohibition from night work for juvenile employees – juvenile employees are between the ages of 14/15 and 18.
4. Proper health examinations of juvenile employees.
5. Protection from hazardous work conditions or circumstances for juvenile employees.

Hazardous employment is any work which exposes the child or juvenile worker to:

- Physical, psychological or sexual abuse
- Underground or under water work
- Work at dangerous heights or within confined spaces
- Work with dangerous tools or machinery, or involving heavy loads
- Hazardous or toxic substances
- Long hours or night work
- Extreme temperatures, noises or vibrations
- Confinement to the premises of the employer.

International Covenant on Economic, Social and Cultural Rights 1966

Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment and child labour should be prohibited and punishable by law.

3.3.3 “Right to Work”

Many footwear and apparel companies with active compliance programmes have raised the minimum age for admission to employment, under their own internal standards, to 18 years old. However, the international community, in particular the child rights organisations, have emphasised the child’s ‘right to work’. Additionally, refusing juveniles employment, where the local law allows it, may constitute unlawful discrimination.

In many countries, the economic and education systems are not sufficiently developed and families and local communities depend upon the incomes of their children. This is directly reflected in the language of the *Minimum Age Convention 1973*. In this context, balancing the educational and development needs of juvenile workers with their right to work is a priority. Finding the balance is a priority for national governments, the children’s NGOs and aid agencies. It should also be a priority for manufacturers operating in countries where it is legal for juveniles, i.e. children of 14 or 15 to 18 years of age, to enter employment.

3.4 Discrimination

3.4.1 Equality of All People

Discrimination is dealt with in the international human rights documents more widely than any other labour standard. This is because the basis for all fundamental human rights is equality of people, especially in public life.

Universal Declaration of Human Rights 1948

All human beings are born free and equal in dignity and rights... Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status...

International Covenant on Civil and Political Rights 1966

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3.4.2 Ability to do the Job vs. Personal Characteristics

Discriminatory practices in employment, in particular within factories, are often quite obvious. However, given the complex cultural, social and political influences in foreign investment businesses, discrimination may take extremely subtle and complex forms. Regardless, in all aspects of employment including recruitment, probation, training, promotion, remuneration and benefits, disciplinary practices and termination, employees must be treated on the basis of ability to do the job and job performance, and not on the basis of any personal characteristics.

Universal Declaration of Human Rights 1948

Everyone, without any discrimination, has the right to just and favourable remuneration.

International Covenant on Economic, Social and Cultural Rights 1966

The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure in particular... remuneration which provides all workers, as a minimum, with... fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work... equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence...

International Convention on the Elimination of all Forms of Racial Discrimination 1966

...the term "racial discrimination" shall mean a distinction, exclusion, restriction or preference based on race, colour, descent, or national origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Convention on the Elimination of all Forms of Discrimination Against Women 1979

Recalling that discrimination against women violated the principle of equality of rights and respect for human dignity, is an obstacle to participation of women, on equal terms with men, in the political, social, economic and cultural lives of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity...

States Parties shall take appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular... the right to work... the same employment opportunities, including application of the same criteria for selection in matters of employment... the right to promotion, job security and all benefits... the right to equal remuneration... social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age... as well as the right to paid leave.

In order to prevent discrimination against women on the grounds of marriage and maternity and to ensure their effective right to work, States Parties shall take appropriate measures... to prohibit... dismissal on the grounds of pregnancy or of maternity leave...

International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families 1990

Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and... other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay. Safety, health, termination of the employment relationship...

3.4.3 Central Concerns

The ILO standards establish two primary goals:

1. To guarantee equality of opportunity and treatment in access to training, employment, promotion, organisation and decision making, in addition to securing equal conditions of remuneration, benefits, social security and welfare services.
2. To protect women workers especially in relation to conditions of work which may involve risk for maternity.

The following conventions embody the principles set out in the UN human rights documents above and establish the labour standards on discrimination:

- *Discrimination (Employment and Occupation) Convention 1958*
- *Equal Remuneration Convention 1951*
- *Workers with Family Responsibilities Convention 1981*
- *Maternity Protection Convention 1919*
- *Maternity Protection Convention (Revised) 1952*
- *Night Work (Women) (Revised) Convention 1948*
- *Night Work Convention 1990*
- *Vocational Rehabilitation and Employment (Disabled Persons) Convention 1983*
- *Private Employment Agencies Convention 1997*
- *Employment Services Convention 1948*
- *Termination of Employment Convention 1982*
- *Migration for Employment Convention (Revised) 1949*
- *Migrant Workers (Supplementary Provisions) Convention 1975*

3.4.4 Protection of Employment

The ILO's Right to Organise and Collective Bargaining Convention provides for the protection of workers against acts of anti-union discrimination in respect of their employment. Similar protection to employment has been extended to other forms of worker representation, under the 1971 Worker Representatives Convention (No. 135).

Where trade unions are restricted by law, but non-union forms of worker representation are permissible, such forms of workplace representation should conform with the principles of worker representation as laid down in the ILO's Worker Representatives Convention.

3.5 Wages & Benefits

3.5.1 Basic Standards

The rights of proper remuneration and access to social benefits are set out in many of the fundamental UN human rights documents. These standards also are found in the ILO Conventions which fix minimum wage standards, secure full and prompt payment and provide for minimum standards in access to social security. Further, these standards have been set out in local laws in the countries where adidas Group does business.

Universal Declaration of Human Rights 1948

Everyone, without any discrimination, has the right to equal pay for equal work...

Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary by other means of social protection...

Everyone has the right to a standard of living adequate for the health and wellbeing himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood...

International Covenant on Economic, Social and Cultural Rights 1966

The States Parties to the present Convention recognise the right of everyone to social security, including social insurance.

3.5.2 Proper Remuneration

At a minimum, the following ILO conventions

- *Minimum Wage Fixing Convention 1970*
- *Protection of Wages Convention 1949*
- *Protection of Workers' Claims (Employer's Insolvency) Convention 1992*

seek to protect workers against excessively low wage rates. Establishing minimum wages requires countries to guarantee the livelihood of the workforce, taking into account the prevailing economic situation at both the local and national level. Additionally, the standards promote payment of wages in legal tender, directly to the worker, free of unlawful or unreasonable deductions.

The concept of a fair or 'living wage', which has been introduced into the language of company compliance programmes, in fact dates back to some of the early internationally accepted standards on wages.

International Covenant on Economic, Social and Cultural Rights 1966

The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

The SEA Team has commissioned numerous studies and conducted extensive consultation with stakeholders in different countries on the issue of living or fair wages. While the compliance community has not reached consensus on the definition of, or a formula for, living wage, we believe that wages must not only cover basic living needs but also give workers reasonable saving and spending power. Additionally, we recognise those business partners who contribute to employee living standards through welfare programmes and other services which enhance quality of life.

3.5.3 Basic Benefits

Increasingly there has been a shift in responsibility from government to employers, for providing social security and other benefits. In many countries, that responsibility now is being shared by the workforce also. Employees contribute to schemes which will protect their long term health and economic interests. Currently, the international standards require employees to be covered for medical care and sickness, unemployment and old age pensions, work related injuries (and in some case non-work related injuries) and invalidity, family and maternity, and death and survivor's benefits. Access to these benefits is required to be provided without discrimination.

The following ILO Conventions have been introduced over the last 50 years to ensure that basic benefits are provided:

- *Social Security (Minimum Standards) Convention 1952*
- *Employment Injury Benefits Convention 1964*
- *Invalidity, Old-age and Survivor's Benefits Convention 1967*
- *Medical Care and Sickness Benefits Convention 1969*
- *Employment Promotion and Protection against Unemployment Convention 1988*
- *Maternity Protection Convention 1962*
- *Equality of Treatment (Social Security) Convention 1962*
- *Maintenance of Social Security Rights Convention 1982.*

3.5.4 Special Protection

Special focus on the protection of, and care for, mothers and children can be found in all the UN human rights documents and ILO Conventions relating to social security and benefits. Often, women and children are the most vulnerable members of society. Benefits such as maternity leave and pay are essential for survival and development of the family.

Universal Declaration of Human Rights 1948

Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

International Covenant on Economic, Social and Cultural Rights 1966

Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3.6 Working Hours

3.6.1 Balancing Work and Leisure

In 1919, the ILO *Hours of Work (Industry) Convention 1919* set the standard work week at 48 hours. Two years later, the *Weekly Rest (Industry) Convention 1921* established a minimum of 24 hours consecutive rest per week for all workers. Since then, in many countries where adidas Group does business, the average work week has been reduced by law to 40 hours per week. Laws dealing with overtime and shift work have been introduced at the local level to ensure proper protection for the health and productivity of employees.

The basic concept of balancing the employee's hours of work with sufficient personal time and leisure through rest days and paid leave is firmly established in some of the basic UN human rights documents.

Universal Declaration of Human Rights 1948

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

International Covenant on Economic, Social and Cultural Rights 1966

The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular... rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Other relevant international standards require:

- Paid annual leave of three weeks or more – *Holidays with Pay (Revised) Convention 1970*.
- Specific measures to be adopted for employees who work at night or on shift work, to protect their health, ensure adequate compensation, and to assist them to meet their family responsibilities and social needs – *Night Work Convention 1990*.
- Part time or temporary workers must receive the same protections and benefits as comparable full time workers in respect of paid annual leave, public holidays and sick leave – *Part Time Work Convention 1994*.
- As far as possible, equality of treatment between home workers and other wage earners – *Home Work Convention 1996*.

3.6.2 Healthy for Business

Increasingly, companies are exploring the relationship between work conditions for employees and the quality of goods or services which are produced by employees. It is apparent that compliance with basic standards relating to maximum work hours and rest periods are essential for maintaining quality and efficiency in the workplace. Balancing the working lives and leisure time of employees is healthy for business.

3.7 Freedom of Association & Collective Bargaining

3.7.1 Communication is Key

Effective communication in the workplace is the cornerstone of social and environmental compliance. Therefore, it is essential that employees exercise their right to choose the methods by which they may communicate with management. The adidas Group does not seek to promote, nor prevent, the lawful formation of workers' organisations, in particular trade unions. However, the Employment Standards protect the right of employees to make their own choices in this regard, free of unlawful interference, and ensures that employees have a voice in the workplace.

Universal Declaration of Human Rights 1948

Everyone has the right to freedom of opinion and expression...

Everyone has the right to freedom of peaceful assembly and association. No-one may be compelled to belong to an association.

International Covenant on Economic, Social and Cultural Rights 1966

The States Parties to the present Covenant undertake to ensure... the right of everyone to form trade unions and join the trade union so his choice... the right of trade unions to establish national federations or confederations and the right of the latter to form or join the international trade union organisations... the right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary... the right to strike, provided that it is exercised in conformity with the laws of the particular country.

International Covenant on Civil and Political Rights 1966

Everyone shall have the right to hold opinions without interference.

Everyone shall have the right to freedom of expression, this right shall include the freedom to seek, receive and impart information and ideas of all kinds...

The right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law...

Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests... No restrictions may be placed on the exercise of this right other than those which are prescribed by law...

3.7.2 To Organise and To Bargain

Two fundamental ILO conventions protect the right of workers to organise:

1. The *Freedom of Association and Protection of the Right to Organise Convention 1948* not only establishes the right of workers to form and join associations, but requires freedom from interference by public authorities, sets out the rights of unions regarding national and international affiliations, and provides for the acquisition of legal personalities by organisations.
2. The *Right to Organise and Collective Bargaining Convention 1949* contains provisions dealing with anti-union discrimination, protection of workers' and employers' organisations against acts of interference by each other, and measures for promoting and encouraging collective bargaining. Specifically, the collective bargaining section promotes the full development of methods necessary for voluntary negotiation between employers and employees.

In the area of industrial relations, collective bargaining has continued to assume greater importance, especially in those countries where the establishment of independent trade unions is restricted by law. Collective bargaining is the process employers and employees engage in, concluding in a collective bargaining agreement. These agreements represent the discussions and agreements reached between employers and employees, relating to workplace terms and conditions.

Based on consensus between representatives of both employers and employees, collective bargaining agreements are often more favourable to employees than individual employment contracts. Under the ILO *Collective Agreements Recommendation (No 91)*, such consensus agreements are legally binding in nature and take legal precedence over individual contracts, while at the same time recognising the provisions of individual contracts which are more favourable to workers. The Recommendation deals generally with the interpretation, machinery and supervision of collective agreements.

The *Collective Bargaining Convention 1981* is one of the most recent ILO conventions. The Convention recommends measures be taken to:

- Make collective bargaining possible for all employers and employees;
- Extend collective bargaining progressively to cover all matters in respect of workplace conditions, terms of employment, and the relationship between employers and employees;
- Encourage the adoption of rules of procedure for relations between employers and employees;
- Ensure that labour disputes may be effectively managed by proper bodies and procedures which enhances the process of collective bargaining.

3.7.3 Negotiations in Good Faith

The ILO has also established standards for settling of disputes through conciliation and arbitration. The *Voluntary Conciliation and Arbitration Recommendation 1951* sets out the process for negotiating disputes, but does not limit the right of workers to strike lawfully.

The international laws contain basic and important principles:

- Freedom of expression
- Effective communication
- The obligation of all parties to act reasonably and lawfully
- The desire to achieve mutually beneficial results.

It is on this basis that the standard of Freedom of Association and Collective Bargaining assumes prime importance.

Collective Bargaining: ILO Standards and the Principles of the Supervisory Bodies 2000

The principle of good faith in collective bargaining implies recognising representative organisations, endeavouring to reach an agreement, engaging in genuine and constructive negotiations, avoiding unjustified delays in negotiation and mutually respecting the commitments entered into, taking into account the results of negotiations in good faith.

3.8 Disciplinary Practices

3.8.1 Fair and Reasonable Treatment

There are two aspects to this standard. First, people should be treated fairly and reasonably. Every person has a right to be free from cruel or oppressive treatment. Second, it is necessary to ensure that there are sufficient and effective systems of appeal and grievance, so that any improper behaviour or treatment may be adequately managed.

Universal Declaration of Human Rights 1948

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

International Covenant on Civil and Political Rights 1966

Everyone has the right to liberty and security of person. No one shall be subject to arbitrary arrest or detention...

Employees must have access to the rules and regulations of the workplace, in their own language. It is fundamentally important to train employees in these rules and regulations, the consequences for breaching them, and the systems of appeal which exist. Employees must be able to challenge any unreasonable disciplinary practices. Such practices must not be arbitrary. For example, under the ILO *Termination of Employment Convention 1982*, employment may not be terminated unless there are valid reasons connected with the ability or capacity of the person to do the job, their conduct, or based on the operations requirements of the business. Any of these grounds must be established, on the facts, and documented.

Under the same convention, the following are **not** valid grounds for termination:

- Union membership
- Making a complaint about an employer
- Acting as the representative of other employees
- Race, colour, national extraction or social origin
- Sex, marital status, pregnancy or family responsibilities
- Religion or political opinion
- Absence from work during maternity leave
- Temporary absence for illness.

3.8.2 Disciplinary Practices in Relation to Female Employees

Given that the large majority of employees in adidas Group partner factories are women, it is especially important to consider the relationship between supervisors and production line employees. While a variety of management styles, based on culture and tradition, are acceptable, certain practices will not be tolerated, irrespective of whether those practices are considered culturally acceptable. Sexual harassment or abuse, repeated use of rude or improper language, or any type of behaviour which is inappropriate or used to intimidate workers is unacceptable.

3.8.3 Does the Penalty Fit the Offence?

The *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984* not only establishes a general principle in respect of disciplinary practices, but applies directly to those situations where employees are handed over to local authorities as a form of disciplinary action. In previous cases, factory managers have handed employees over to the authorities, based on breaches of factory rules such as theft of shoes, equipment or materials. Employees also have been reported to the police for exercising their legal labour rights, such as the right to strike.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984

Each State Party shall undertake to prevent under its jurisdiction other acts of cruel, inhuman or degrading punishment... when such acts are committed by or at the instigation of or with the consent of a public official or other person acting in an official capacity.

The local laws and institutions of the country of manufacture must be observed. However, it is extremely important to consider in all cases whether the disciplinary action matches the unlawful or unreasonable behaviour of the employee.

Section 4 – Employment Standards

4.1 General Principle

The Workplace Standards state:

Business partners must comply fully with all legal requirements relevant to the conduct of their businesses.

4.1.1 Common Terms

1. Legal Requirements: Any laws or regulations which apply to the factory. For example, the corporate and commercial laws of the country where the factory business was legally established, or the local labour laws and health and safety regulations where the factory is located.
2. Conduct of Business: The management of every aspect of the factory business. (See the Systems & Documentation section below.)

4.1.2 Relevant International Documents/Principles

- § *Universal Declaration of Human Rights 1948*
- § *ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy 2000*
- § *Amnesty International Human Rights Principles for Companies 1998*
- § *The OECD Guidelines for Multinational Enterprises 2000*

4.1.3 Identifying Common Examples of Non-Compliance

Company/Business Obligations

- x The factory avoids its obligations to pay tax, obtain the necessary licences, or comply with any special financial or reporting requirements for companies. These legal obligations depend on the local laws of the country in which the factory operates.
- x The factory does not have government commercial registrations posted or on file.
- x The factory does not keep current records of fire safety inspections or social security payment schedules, as required by law.
- x The factory does not have proof of liability insurance or other commercial insurances or certificates as required by law.
- x The factory human resources department is not informed of the current, up-to-date labour laws.

Duty to Employees

- x The factory does not brief workers on the company rules and regulations, or wages and benefits.
- x The factory does not have a mechanism for workers to acknowledge and sign their understanding of the company's internal labour practices and policies.
- x The factory does not issue an employment contract to workers, does not give a copy of the contract to the workers, or does not give them a copy of the contract in a language they understand.
- x The factory dismisses workers without proper notice to the labour bureau as required by law and without paying proper benefits according to law.

Transparency

- x SEA monitoring field staff or external auditors are not given access, or are restricted in access, to all facilities, workers and relevant documents.
- x The factory prohibits workers from talking openly to visitors.

- x There are no centralised, individual personnel files or records for each worker which may be inspected.
- x Time cards are kept for a limited time period (2 to 3 months) and not made available to auditors or labour inspectors.

Third-Party Relationships

- x The factory does not communicate, investigate and monitor the conditions of their sub-contractors for compliance with adidas Group Workplace Standards.
- x The factory hires workers through an employment agency but does not monitor the agent for labour compliance.
- x The factory has failed an inspection by a government labour, health or safety officer or agency, and has not taken the adequate measures to remediate the violations.

4.1.4 Systems and Documentation

It is not possible for a factory to comply with the General Principle unless the factory uses a total quality management approach to the establishment and running of the factory. This applies to:

- Establishing the business according to law
- Seeking business or joint venture partners
- Construction of the factory buildings
- Obtaining the necessary business licences and registrations
- Insurance and protection of the business
- Recruiting employees
- Sourcing of raw materials
- Production, marketing and shipping
- Subcontracting production or services such as cleaning and catering
- Research and development
- Supervision and treatment of employees
- Long-term business planning
- Any necessary termination or closure of business

4.1.5 Suggested Solutions

Company/Business Obligations

- ✓ Seek reliable legal and financial advice regarding the corporate obligations for running a factory business and put in place a system to keep track of all legal and fiduciary requirements.
- ✓ Find out what taxes should be paid and if there are any special periodic company or business reporting requirements.
- ✓ Check what business licences, registrations or other permits are required by the local authorities.
- ✓ If the company intends to run a factory in a foreign country, seek advice about the laws of that country, in particular any foreign investment laws.
- ✓ Make sure that there is a system for tracking and accessing all registrations, fire safety and other inspections, insurance renewal certificates, social security payments and any other national payment schemes.
- ✓ Keep a list of all relevant national and local government services and contacts so that up-to-date copies of labour, health and safety and environmental laws may be easily obtained.

Duty to Employees

- ✓ Provide orientation to new employees. Give them copies of the factory policies and work rules. Provide training in their basic rights and benefits in a language they can understand..
- ✓ Follow the local legal requirements regarding the signing of employment contracts. Make sure that contracts are in the local language, are signed by both parties, and that employees are given a copy of the contract.
- ✓ Follow the local law in respect of all aspects of employment, working hours, wage payments, leave and other benefits, termination and dispute resolution.

Transparency

- ✓ You are required to grant access to the SEA Team or third-party monitors for audits. Make sure that all staff, including factory security guards, are aware of this. This will ensure good cooperation during audits.
- ✓ Allow your employees to speak freely with authorised visitors to the factory. Do not discipline or punish workers for discussing factory conditions.
- ✓ Organise the support services in your factory, such as human resources, personnel, administration and office management. Make sure that they implement well organised systems and procedures such as centralised filing systems.
- ✓ Maintain personnel, financial and other business records documents on site.

Third-Party Relationships

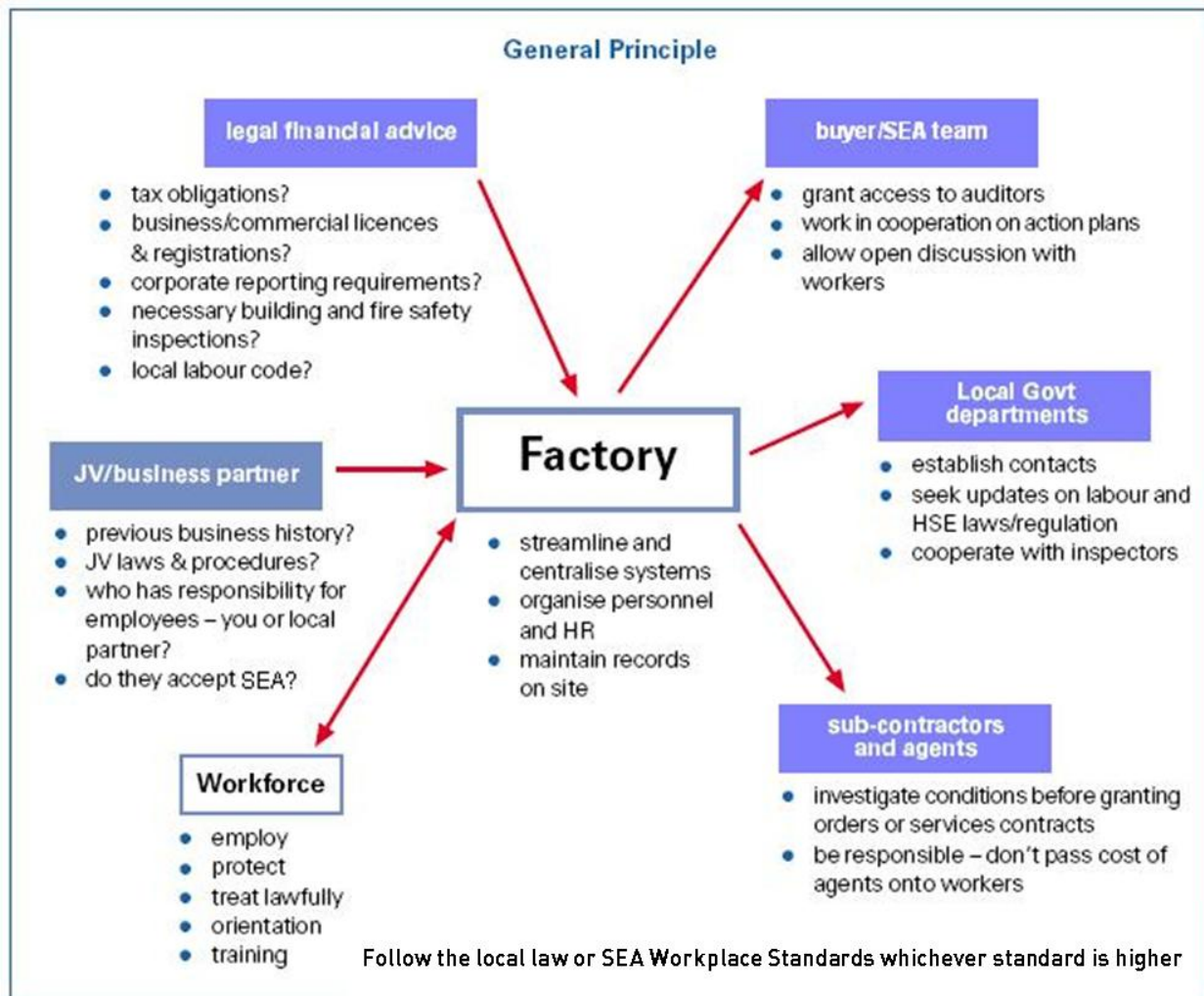
- ✓ Check the conditions at your subcontractors' businesses or factories before giving them orders or contracting their services.
- ✓ Communicate and discuss with subcontract factories obligations and compliance under the law and adidas Group standards.
- ✓ Use reliable recruitment and other agents. Be responsible for their fees and charges. Do not pass these business costs on to your workers.
- ✓ Maintain relationships with local government departments and seek their assistance and advice on workplace laws and requirements.

4.1.6 Documentation, Procedures and Systems – Evidence of Good Management

Factory Document Checklist

- ✓ National and local labour codes
- ✓ National and local health and safety regulations
- ✓ National and local environmental requirements
- ✓ Liability insurance documents, e.g. social insurance registration record
- ✓ Compliance record of subcontractor/recruitment agent
- ✓ Business registrations and certificates
- ✓ Government registrations or permits
- ✓ Taxation and other financial records
- ✓ Inspection records (e.g. fire safety and building inspection reports)
- ✓ Standard contracts
- ✓ Factory guidelines, policies and workplace rules
- ✓ Worker Handbook
- ✓ Working permits for foreign employees
- ✓ Training record on factory rules/regulations.

4.1.7 Management Flowchart



4.1.8 Case Studies for Unacceptable, Acceptable and Best Practices in the General Principle of Employment Standards

Maintaining Reference Materials for Local Laws, Regulations and Codes

A foreign investment factory has been operating for 7 years outside the capital city. The factory receives a visit from the adidas Group SEA Team who would like to examine original company payroll, time records, statements of the local social security authority, certificates relating to fire safety inspections, and other health and safety related systems. Additionally, the SEA field staff requests to see any copies of the national labour code, foreign investment legislation, and environmental regulations in the factory's possession. The factory manager and human resources department are not able to supply any copies of the laws, and almost all financial records have been moved off-site, back to the headquarters in the home country of the supplier. The SEA field staff suspects breaches of the national labour code and interviews employees during a physical inspection of the premises about health and safety practices. However, the auditor is not able to carry out a proper investigation due to lack of records and materials.

What did the Factory Do Wrong?

Since the factory managers remain largely ignorant of the company's legal obligations, they are in breach of basic local laws regarding employees' minimum pay, maximum working hours, and health and safety regulations. The factory does not comply with the General Principle under the Workplace Standards. Simply explained, the factory management system operates without regard to all of the local laws and regulations.

What Should the Factory Do?

The factory owner should instruct the human resource department (or staff responsible for personnel) to obtain copies of the local labour laws and any regulations relating to health, safety and environmental requirements. The human resources/personnel manager researches the basic methods available for updating regulations by contacting the local government departments and consulting with the adidas Group SEA Team. The factory management is aware that they have to make regular appointments for any necessary certifications to be carried out in respect of health regulations, fire safety or insurance claims.

The factory management system should include guidelines on basic systems of record keeping and personnel filing. All records are maintained on site and can be accessed in a convenient and timely manner. Human Resources/Personnel are made responsible for supervising the labour and HSE management systems.

Best Practice

The factory management system includes a total quality management ("TQM") approach to all human resources and personnel systems. A TQM approach integrates all of the points mentioned above so that all relevant laws and regulations, financial information and other records, certificates and registrations, and employee profiles can be accessed as necessary at any time.

The factory owner makes a commitment to the ongoing training and development of the support services in the factory, such as the staff in the Human Resources department. This will ensure that management systems and legal compliance remain up-to-date.

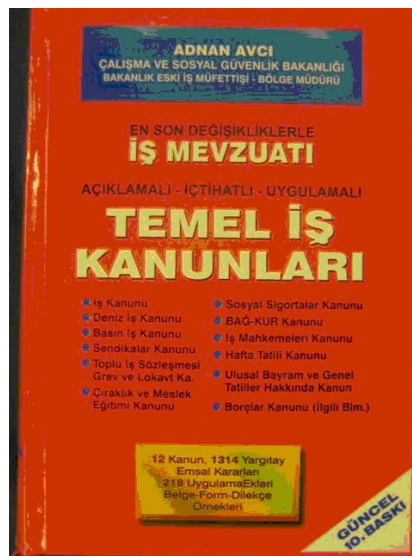


Figure 1 – Turkish Labour Laws and Regulations

4.2 Forced Labour

The Workplace Standards state:

Business partners must not use forced labour, whether in the form of prison labour, indentured labour, bonded labour or otherwise. No employee may be compelled to work through force or intimidation of any form, or as a means of political coercion or as punishment for holding or expressing political views.

4.2.1 Common Terms

1. Forced Labour: Workers do not provide their labour voluntarily.
2. Indentured Labour: Workers are bound to the factory under agreement and are not able to leave at will. Slave holding is a form of indentured labour.
3. Bonded Labour: Workers provide labour without payment in order to repay the debts of a third party to the factory owner. Workers are not free to leave the factory at will.
4. Political Coercion: To compel a person by force, intimidation or authority to act or think in a certain way, for political purposes. For example, placing individuals in state labour camps in order to silence them or as punishment for their political opinions is a form of political coercion.

4.2.2 Relevant Legal Documents

United Nations

- § *Universal Declaration of Human Rights 1948*
- § *International Covenant on Civil and Political Rights 1966*
- § *International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families 1990*
- § *United Nations (UN) Code of Conduct for Law Enforcement Officials 1979*

ILO

- § *Forced Labour Convention 1930*
- § *Abolition of Forced Labour Convention 1957*

4.2.3 Identifying Common Examples of Non-Compliance

Indentured Labour

- x Any form of slave labour.
- x A worker receives wages as agreed with the worker or a third party, but the worker is not free to leave the factory. For example, the use of 'servants' is not allowed under the Workplace Standards because their freedom of movement is usually limited.
- x Use of apprentices or trainees who work without pay or receive less than the minimum wage under training agreements.

Bonded Labour

- x Providing unpaid labour, in particular child workers, in payment of a debt owed to the factory owner by another person, usually the worker's parent or relative.
- x Reaching agreement with the head of a local community to use locals as unpaid workers in return for goods or services which the factory can provide, for example, accommodation, food, protection or weapons.
- x Asking a worker to sign a contract that binds or prohibits voluntary resignation after training provided by management.

Prison Labour

- X Sending work out to a subcontractor who uses prison workers, regardless of whether the work is done in a prison or at a factory.
- X Participating in any kind of paid or unpaid community work programme for prisoners.

Contracts

- X Direct or indirect contracting of workers forced to work against their will, including government sanctioned work programmes. For example, 'work for unemployment benefits' schemes.
- X The terms and conditions of employment are not regulated. For example, delayed payment of salaries amounting to non-payment; not providing leave or public holidays as required by law; binding workers under multiple, short-term contracts without proper benefits.

Recruitment Fees

- X Workers must stay at the factory in order to repay a debt such as transportation fees or recruitment fees. Usually, the factory has paid the fees on the worker's behalf directly to the agent and then keeps the monthly wages of the worker until the debt is repaid. In some cases, workers spend from six months to three years working to repay the debts of recruitment agents.

Overtime

- X Involuntary overtime.
- X Increasing the production targets during peak season and requiring workers to work long hours.
- X Workers work overtime without pay in order to reach production quotas, e.g. rework on rejected product and unreasonable production targets.
- X Workers work overtime due to severe financial hardship because their wages do not meet the legal minimums or do not provide enough money to live on.
- X Workers are forced to resign if they are not willing to do overtime.

Retention of Documents

- X Requiring workers to surrender original identity documents, such as birth certificates, passports, work visas or residence visas.
- X In the case of migrant workers or workers who live at the factory, keeping (or restricting access to) personal and financial documents which would allow a worker to seek other employment, return home, or access a bank account.

Freedom of Movement

- X Use of heavily armed security guards, in particular public security forces such as police or military personnel.
- X Restricting or unreasonably regulating workers' access to basic facilities such as bathrooms, drinking water or the factory canteen.
- X Preventing workers from leaving the factory or unreasonably restricting movement around and out of the factory.

4.2.4 Systems and Documentation

It is not possible for a factory to comply with the standard on Forced Labour unless the factory uses a total quality management approach to the running of the factory. This approach should extend to factory regulations, HR and Personnel policies and procedures, factory security, use of subcontractors, and production and planning.

4.2.5 Suggested Solutions

Indentured & Bonded Labour

- ✓ Only make agreements regarding the employment of a person directly with that person, and not another party.
- ✓ Provide all wages and other benefits directly to workers and not to any other person.
- ✓ Pay trainees and apprentices at least the legal minimum wage. *(See also additional guidance on Trainees in Section 5.1.3.)*
- ✓ Provide remuneration to workers in cash, or where there is agreement with the worker, by cheque or direct transfer and not 'payment in kind', i.e. other goods or services.

Prison Labour

- ✓ Subcontract work to factories and suppliers whose facilities you have visited and which guarantee that no prison labour in any form is being used.
- ✓ Look closely at the terms of any local community work programmes that the factory or your subcontractors become involved in.

Contracts

- ✓ Ensure that all workers are employed
 1. with standard labour contracts (supplied by the local labour department);
 2. under a collective bargaining agreement which has been endorsed by the union and the local labour department; or
 3. by agreement with the factory where the terms and conditions of employment, such as wage payments and working hours, are in accordance with the local labour laws.
- ✓ See also additional guidance on Contract Workers, Section 5.1.2.

Recruitment Fees

- ✓ Ensure that there is a clear policy that the factory is responsible for recruitment fees.
- ✓ Ensure that there are clear factory guidelines prohibiting the charge of 'introduction fees' by supervisors or other employees. Charging new recruits a commission to help them find a job in the factory should be grounds for disciplinary action against the person charging the commission.
- ✓ Use reliable recruitment agents to hire foreign or migrant workers. Reach agreement with the agency regarding reasonable recruitment fees, transport and other charges, and the method of payment by the factory to the agent.
- ✓ It is acceptable to deduct reasonable amounts of money from a worker's salary for fees such as transportation on the way from/to factory, accommodation or food (unless it is a legal requirement or industrial standard), but not the fees for obtaining local work permits and visas and other fees to meet the legal requirement such as yearly medical check-up. Such fees should be borne by the factory.
- ✓ The total amount of money that can be charged to migrant workers should be in compliance with the legal stipulation from the country of origin. When the law is silent, the charges must be reasonable and deducted from the worker's salary gradually. The total deduction, on top of any legal mandatory deduction by government, such as a levy or social security, should not exceed 20% of the total monthly pay.
- ✓ Include in factory application and interview forms questions which deal with, and investigate the payment of, any recruitment fees by workers to another party.
- ✓ See also additional guidance on Use & Management of Recruitment Agents, Section 5.1.1, and on Migrant Workers, Section 5.1.4.

Overtime

- ✓ Ensure that there is a clear policy which states that all overtime must be voluntary. Educate workers and supervisors on the policy.
- ✓ Establish reasonable and clear production targets which can be met within regular work hours.
- ✓ Any overtime work necessary to reach production quotas or meet orders should be paid according to proper overtime rates (i.e. based on legal or government standards) and must be performed on a voluntary basis.

Retention of Documents

- ✓ Keep photocopies of personal ID documents on file and not the original documents.
- ✓ Provide workers with access to any of their personnel records or files.
- ✓ If payment of wages is by bank transfer, workers should have their own accounts which they may access free of interference from the factory.
- ✓ See also additional guidance on Migrant Workers, Section 5.1.4.

Freedom of Movement

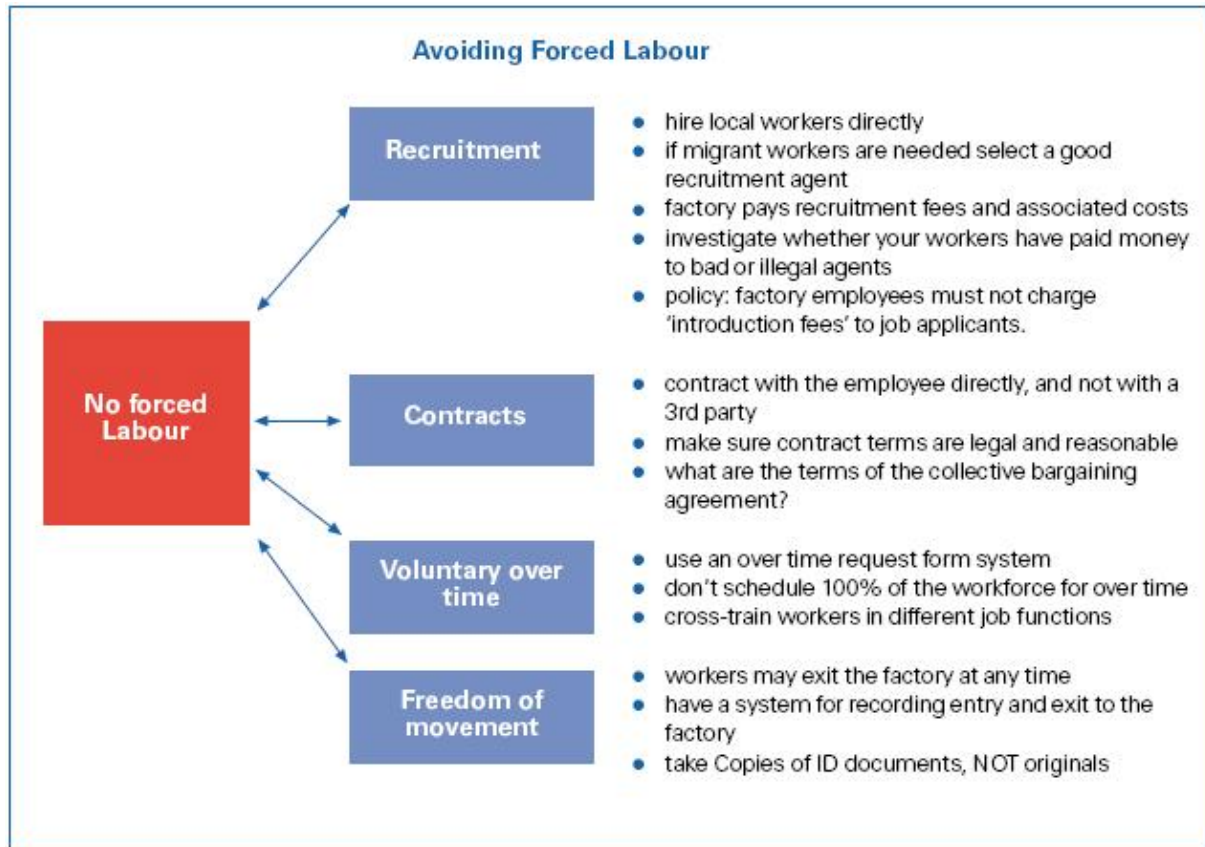
- ✓ Allow workers to freely exit the factory at any time. Create a system for tracking workers in the event that they leave without explanation during regular work hours.
- ✓ Ensure that there is a policy preventing supervisors and guards from using force against workers or restraining workers to prevent them from leaving production areas or the factory grounds.
- ✓ Provide unrestricted access to bathroom facilities, drinking water and other basic facilities.
- ✓ For Privacy Issues please see the additional guidance on Body Searches, use of CCTV and Fingerprinting & Scanning, Section 5.2.

4.2.6 Documentation, Procedures and Systems – Evidence of Good Management

Factory Document Checklist

- ✓ Employment Advertising
- ✓ Recruitment Agent management system (e.g. List of Reliable Recruitment Agents, standard Agreement with Recruitment Agent, policy of recruitment fee)
- ✓ Worker Employment Contract or Collective Bargaining Agreement
- ✓ Forced Labour Policy and policy regarding freedom of movement in and out of the factory
- ✓ Overtime management system (e.g. policy, procedure, records such as voluntary overtime form)
- ✓ Payroll Records
- ✓ Personnel Files
- ✓ HR/Personnel forms such as annual leave applications and disciplinary measures/warning letter
- ✓ Training records related to Forced Labour Standards
- ✓ Local laws/regulations related to Forced Labour Standards.

4.2.7 Management Flowchart



4.2.8 Case Studies for Unacceptable, Acceptable and Best Practices in the Forced Labour Standard

A. Prison Labour

The local government announces a rehabilitation programme for the prison system. Prisoners with good behaviour records will be chosen to work in local businesses as part of the process of re-entering society after completing their sentences. The prisoners will not be paid but their sentences will be reduced by one day for each day worked. The programme receives popular support in the media. A local manufacturer enlists in the programme and receives the first group of prisoners. The prisoners start working in the factory's shipping warehouse and are recognised as excellent employees.

What did the Factory Do Wrong?

The owner employed prisoners.

What should the Factory Do?

The factory must not hire prison labour of any kind, regardless of whether the labour is paid or unpaid, or forms part of a government community or rehabilitation scheme.

Best Practice

The factory manager discusses with local government the prisoner work programme. The factory manager does not enlist the factory in the programme but does propose an alternative programme offering jobs at competitive wages to newly released prisoners.

Within the year, the programme has become a successful pilot project and is used as a model for implementation in other factories in the region.

B. Indentured Labour and Migrant Workers

A factory needs additional production workers and decides to recruit them from other regions or provinces. The factory contracts with a local agent to hire and transport the new workers to the factory. The workers are required to sign a contract with the local agent, but they are not given any opportunity to review the contract terms and conditions before signing. The factory pays the agent a commission for each new worker and sends the agent money for the new workers' transportation costs.

When the new workers arrive at the factory, the personnel department takes their original identity cards for safekeeping. The new workers are told that they will receive their first pay after the transportation costs and the agency commissions are deducted from the first few months' wages. In some cases, the workers will not receive any wages for more than 6 months.

Then the new workers are told that the neighbourhoods around the factory are dangerous and employees are not allowed to leave the factory grounds at any time. Security staff guard the factory gates 24 hours a day and it is considered safe and secure inside the factory grounds only. The factory has a market, a cinema and an athletic field for the use of the employees when they are not working. The factory also houses workers in dormitories on the factory grounds.

What did the Factory Do Wrong?

The workers' original identity documents are taken away from them. This has the effect of restricting their ability to move about freely or provide proof of identity when, for example, looking for a new job. Similarly, workers are not allowed to leave the factory grounds. Workers will not be paid until the agency commission and transport costs are repaid to the factory through wage deductions.

What Should the Factory Do?

When the new workers arrive at the factory, photocopies of their identity cards are taken by the personnel department and filed on the employees' personnel folders. All employees keep their original identity documents.

The factory pays the agency fees as part of the cost of doing business. During orientation, the new workers are told that the costs of their round trip transportation will be gradually deducted from their pay. The total deduction on top of legal mandatory deduction such as levy, social security will not exceed 20% and will be detailed on the pay slip or receipt.

The factory human resources department explains to the new workers that the neighbourhoods around the factory are dangerous and caution is necessary when workers leave the factory grounds during their free time, especially at night.

Workers are allowed to enter and exit the dormitories at any time. For those dormitories which are outside or adjacent to the factory, security is provided for worker protection.

Best Practice

The factory selects recruitment agents who have a good reputation and charge reasonable fees. The factory pays the recruitment agency fees as agreed with the agent on behalf of workers. The factory also subsidises the total cost of round trip transportation for new workers. No transportation costs are deducted from workers' wages.

As part of its total quality management system, the factory develops guidelines which facilitate workers' freedom of movement in and out of the factory, but maintain a safe and secure work environment. For example, to help reduce the danger, the factory provides secure access to the athletic fields, a food market, and a cinema for use by employees in their free time. The factory also provides a bus service between the factory and town.

C. Involuntary Overtime

The factory has worked overtime on 4 consecutive days this week. The supervisor informs workers that they will have to work overtime again today. Two of the workers tell the supervisor that they will not be able to work overtime due to personal and family obligations. The supervisor tells both workers that they will have to work anyway because there is an important order to complete and their attendance is crucial to its completion. If they refuse, they could be fired.

What did the Factory do Wrong?

All overtime work must be performed voluntarily. Involuntary overtime work is not in compliance with the Forced Labour employment standard.

What Should the Factory Do?

The supervisor asks each of the workers in the production line to volunteer to work overtime that day. Two of the operators state that they cannot work due to personal and family obligations. The supervisor tells them that they should leave at the end of the regular shift. The rest of the line volunteers for the overtime.

In many countries, it is a legal requirement that any overtime performed on a voluntary basis must be documented or consented to in writing. Therefore, the supervisor passes an overtime work list down the production line. The list states that overtime is requested for that day, and any workers interested in volunteering should sign up. This list is then sent to the personnel department as a backup for timecard and overtime calculations.

Best Practice

The factory's leadership guidelines for supervisors are updated. The update explains the company's policy on overtime, and stresses that any overtime hours are voluntary for all employees.

In addition to the basic orientation training workers receive on the Worker Handbook and the factory's voluntary overtime policy, factory managers develop ongoing cross-training programmes so that workers are capable of performing different tasks and functions. Therefore, workers from the same and different departments are able to perform overtime in various positions when their workmates are not able or not willing to work overtime. The management system is revised so that it now includes a tracking system alerting managers when workers approach the 60 hour weekly maximum.

In addition to this, the factory analyses its capacity, work schedules, total workforce population and the nature of orders each season in order to determine how the maximum number of orders can be completed within a 60-hour week based on the current workforce numbers and skills levels.

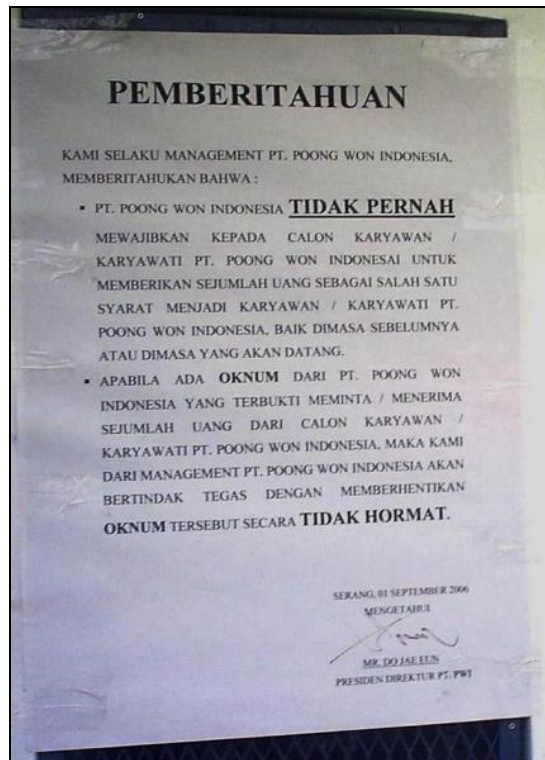


Figure 2 – Notice regarding recruitment fees in Indonesia
It clarifies that no recruitment fees are required from applicant and that there will be disciplinary measures against whoever asked for an illegal recruitment fee.

| บัตรแสดงระดับความสามารถของพนักงาน (Multi skill chart) | | | | | | | | | | | | | | | | | | | |
|---|----------------|---------|----------------------|-------------------|------------|---------|----------------|------|----|-----------|-----------|--------|--------|-------|--------------|-----------------|--------|------|------|
| ลำดับ | ตำแหน่ง/ประเภท | | จำนวน ความสามารถจริง | จำนวนการที่จะเต็ม | ข้อมูลค่า | | | | | | | | | | สามารถเลื่อน | ปีงบประมาณ 2009 | | | |
| | ชื่อ | แบบสรุป | | | เชิงเดี่ยว | สองชั้น | สองชั้น ทุกลาย | บ้าง | ลา | โทษ 5 วัน | โทษ 4 วัน | พักงาน | ลดภาระ | ประจำ | | กะเช้า | กะบ่าย | ก.ค. | ส.ค. |
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ระดับ 1 0% หมายความว่า ● ความสามารถในการใช้เครื่องจักร ตามจำนวนประเภท
 ระดับ 2 0% ● ความสามารถในการใช้เครื่องจักรได้ทุกประเภท
 ระดับ 3 0% ★ ความสามารถในการใช้เครื่องจักรได้ทุกประเภท และสามารถสอนงานได้

ผู้ประเมิน: _____ ผู้บริหาร: _____
 ตำแหน่ง: _____ ตำแหน่ง: _____
 ตำแหน่ง: _____ ตำแหน่ง: _____

Figure 3 – Multi-Skills Training worksheet developed by a factory in Thailand.

| OVERTIME REQUEST FORM | | | | | |
|---|------|------|-----------|---------|------|
| Note: All overtime must be performed on a voluntary basis | | | | | |
| We, names and signatures set out below, agree voluntarily to work overtime on the dates and at the times specified. | | | | | |
| Day | Date | Time | Day | Date | Time |
| Monday | | | Friday | | |
| Tuesday | | | Saturday | | |
| Wednesday | | | Sunday | | |
| Thursday | | | Holiday | | |
| Worker No | Name | | Signature | Comment | |
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Table 1 – Standard Voluntary Overtime Request Form



Figure 4 – A voluntary overtime sign (“Lembur Sukarela”) posted at production floor in Indonesia.

4.3 Child Labour

The Workplace Standards state:

Business partners must not employ children who are less than 15 years old or less than the age for completing compulsory education in the country of manufacture, where such age is higher than 15.

4.3.1 Common Terms

1. Child Labour: Any worker less than 15 years old.
2. Juvenile Labour: Workers aged 15 – 17 years old.
3. Adult Labour: Any worker aged 18 years old and above.
4. Child Care: Any on-site child minding facility provided for the children of workers from post-maternity leave, where maternity leave is defined and provided under the local law, until school age. *(Note: Where local law does not provide for maternity leave, children may attend the child minding facility from the time the mother returns to work after giving birth.)*

4.3.2 Relevant Legal Documents

United Nations

- § *Convention on the Rights of the Child 1989*
- § *International Convention on Civil and Political Rights 1966*
- § *International Covenant on Economic, Social and Cultural Rights 1966*

ILO

- § *Night Work of Young Persons (Industry) Convention 1919*
- § *Medical Examination of Young Persons (Industry) Convention 1946*
- § *Minimum Age Convention 1973*
- § *Convention on the Worst Forms of Child Labour 1999*

4.3.3 Identifying Common Examples of Non-Compliance

Child Labour

- x Hiring workers under 15 years old for any type of job or in any area in the factory.
- x Use of undocumented, unregistered or otherwise hidden child labour to save money. For example, unrecorded payment of cash wages to child workers located in an isolated part of the factory, where the children receive less than minimum wage and no benefits.
- x Home workers receive help from their children to make products at home (This applies in those countries where homework is allowed and regulated by local labour laws).

Child Care Facilities

- x Failure to observe local laws requiring the establishment and/or proper management of an on-site child minding facility.
- x No clear delineation between child care facilities and production areas, placing children at serious risk of injury, illness or chronic diseases and death.

Juvenile Labour

- x** Using juvenile workers outside the parameters of legal protections and restrictions for those workers. For example, many local laws state that juvenile workers must not work overtime.
- x** Employing juvenile workers in conditions that are hazardous to the development of their physical and mental health. For example, assigning juvenile workers to chemical mixing rooms, footwear assembly lines or apparel press/steam sections.
- x** Employing juvenile workers in a manner that prevents or hinders them from completing their education. For example, assigning juvenile workers to shift or weekend work, or not allowing them leave to complete exams.
- x** Employing juvenile workers in a manner that denies access to additional educational opportunities, such as vocational training or multi-skills training provided to older workers.
- x** Failing to conduct any periodic health checks required by local law.

4.3.4 Systems & Documentation

It is not possible for a factory to comply with the standard on Child Labour unless the factory uses a total quality management approach to the running of the factory. This approach should extend to HR and Personnel policies and procedures, in particular recruitment, organisation of employee files, assignment of juvenile workers to certain production areas, limitations on total hours of work and health checks for juvenile workers, and training of supervisors regarding local laws on juvenile workers.

4.3.5 Suggested Solutions

Child Labour

- ✓ Check the minimum age requirements where the factory is located. If the minimum age is higher than 15, e.g. 16 years, this is the minimum age standard. In all other cases, the minimum age is 15.
- ✓ Establish a system for assessing the age of new recruits to the factory. In the case of workers who are obviously older, one official ID document is sufficient. For all other workers, it may be necessary to cross-reference two or three different documents, such as official IDs, birth certificates, driver's licences, passports, education certificates.
- ✓ If ID or age documentation appears false and cannot be sufficiently cross-referenced to establish the correct age of the job applicant, do not hire the applicant.
- ✓ Take photocopies of all documentation which establishes proof of age.
- ✓ In the event that child labour is discovered in the factory, consult the child and the child's parents or guardians about:
 1. the circumstances of the child and his or her family;
 2. education opportunities which exist both within and outside the factory; or
 3. whether a parent or adult relative might be hired in place of the child while the child attends school.

Note: The adidas Group can provide the contact details for a number of NGOs and institutions with established programmes providing child labour solutions for both factory management and the child labourers themselves.

Child Care Facilities

- ✓ The workforce at supplier factories is mostly female, of reproductive age and, in many cases, migrant. Child care is a major concern for workers. Many workers are separated from their children and are forced to leave them in the care of relatives. Alternatively, workers bear the cost of child care which can be a significant burden for workers who are paid at minimum wage. Where the supplier provides child care facilities, workers and their families receive a direct benefit.

- ✓ Suppliers must identify first whether there are any legal requirements in relation to establishing and managing an on-site child care facility. If there is no legal requirement to establish a child care facility, then the factory may consider establishing child care facilities as a best practice.
- ✓ Where there is no local law or regulation governing the establishment and management of child care facilities, the supplier must develop a plan for adequately managing, staffing and administering the facility. Factory management should consider insurance coverage, legal liability, maintenance of the facility, management and supervision of the facility, qualifications of the child carers, emergency preparedness, parental access.
- ✓ Any child care facility must be separated adequately from the production areas in the factory. The supplier must establish rules regarding use of and access to the facility.

Juvenile Labour

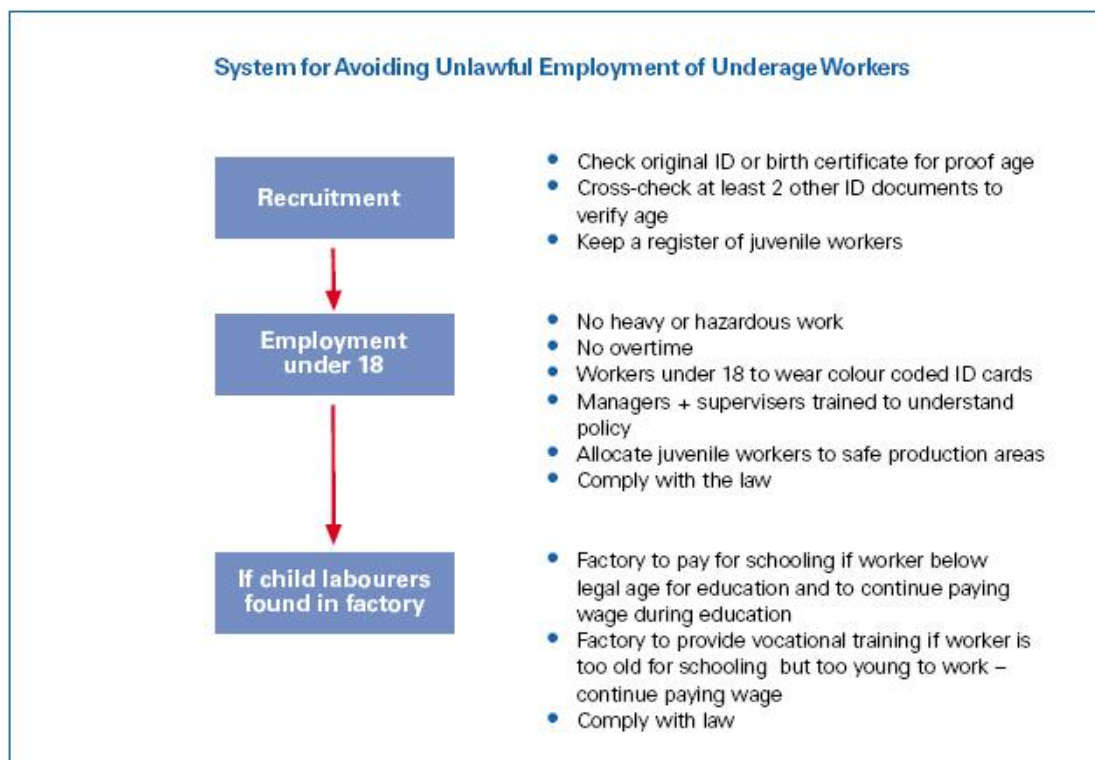
- ✓ Where local law allows the recruitment of juveniles, if the supplier refuses to hire a juvenile worker based on his or her age, then the supplier discriminates against the worker. In many countries with young populations or developing economies, young people contribute to the financial support of their families and communities. By hiring juvenile workers, suppliers contribute to the local community and ensure that young people are not forced into other employment or industries harmful to their health and development.
- ✓ Selection of workers must be based on a person's ability to do the job, not on his or her age – taken that the legal minimum age is taken into account. This means that the supplier should *only* consider the skill level, knowledge, relevant job experience and ability of candidates, and not their age. Review the existing hiring policies, procedures and documents, such as job advertisements and application forms, to identify any non-compliance with the SEA discrimination standard.
- ✓ Review the local laws in respect of juvenile labour. What special requirements are there in relation to working hours, schooling or education, medical treatment and job positions? What does the law consider to be unsafe for juvenile workers – e.g. exposure to chemicals; lifting of heavy objects; extreme temperatures; work below ground or at heights?
- ✓ Where there are no local laws to regulate the employment of juvenile workers, or to provide guidance, consult with the SEA Team regarding information and other resources. Factories are expected to manage juvenile workers in a manner consistent with the basic standards set out in the international laws and in this guideline - for example:
 - Identify the areas in the factory and the job positions that are safe for juvenile workers, and assign juvenile workers to those safe production areas, i.e. away from chemicals and other harmful substances, or heavy or dangerous machinery and equipment.
 - Implement a tracking system for juvenile workers, i.e. all workers under 18. Personnel should keep a Juvenile Worker Register listing all workers under 18 with their names, dates of birth and current job position.
 - Use a visual reference to identify juvenile workers, e.g. a colour coded ID tag. Ensure that supervisors know which workers are juveniles.
- ✓ The health of juvenile workers should be monitored by periodic health checks. Ensure that any periodic health checks required by law are carried out and that the results are kept on employee files.
- ✓ Provide the same pay levels and access to benefits to juvenile workers that are provided to adult workers doing the same job.
- ✓ Provide the same training and education opportunities to juvenile workers that are provided to adult workers.
- ✓ Consider the total number of hours juvenile workers are expected to work. No worker may be forced to work overtime. The work schedule of juvenile workers, in particular, should be limited to regular work hours.

4.3.6 Documentation, Procedures and Systems – Evidence of Good Management

Factory Document Checklist

- ✓ Birth Certificates
- ✓ National or Official ID Cards
- ✓ Education Certificates (such as school graduation certificates)
- ✓ Social Security Registration
- ✓ Residence Permits/Cards
- ✓ Work Visas
- ✓ Voter Registration Cards
- ✓ Juvenile Worker Registration Cards
- ✓ Driver's Licence
- ✓ Passports
- ✓ Annual Health Check Cards
- ✓ Juvenile Worker Register (maintained by Personnel)
- ✓ Child Labour Policy
- ✓ Internal factory policy of managing/maintaining child-care facility
- ✓ Child and Juvenile management system (e.g. policies and procedures, records)
- ✓ Training records related to Child Labour Standards
- ✓ Local laws/regulations related to Child Labour Standards, e.g. on child care facility

4.3.7 Management Flowchart



4.3.8 Case Studies for Unacceptable, Acceptable and Best Practices in the Child Labour Standard

Child Labour

A story in the international media gains attention. It is reported that a swimwear factory in China actively recruits children from the local schools in neighbouring towns and that many of the children are 13 – 15 years old. The legal minimum working age in China is 16. On investigation, it turns out that the child labourers make up almost the entire worker population of the factory, are paid below minimum wage, and work excessive overtime. The general working conditions in the factory are also quite poor, with little regard for health and safety. On further investigation in the local community it is discovered that many of the children's parents have left the local area and are working as migrants in other provinces, leaving their children in the care of grandparents and other relatives.

Feeling intense pressure from the media and the compliance staff of its buyers, the factory takes quick action to shut down many operations and to dismiss the child labourers and send them home. However, this process is completely unmanaged and the factory takes no action to supervise the children's return to their parents or guardians. Subsequently, it is discovered that many of the children did not return home, but instead were picked up by other factories in the area or have simply 'disappeared'.

What did the Factory Do Wrong?

Almost everything. In addition to maintaining a poor work environment and failing to follow the most basic requirements in relation to minimum working age, the factory flagrantly ran a recruitment campaign removing local children from school in order to staff the factory at lower cost. Upon discovery, the factory acted irresponsibly and took steps to hide the problem or simply get rid of it. In short, the factory completely exploited the children for short-term commercial gain, resulting in serious harm to the children and significant reputational damage to itself and its buyers.

What Should the Factory Do?

In such cases where child labour is discovered, regardless of whether the factory actively recruited under-age workers or it was done as the result of administrative negligence or error, the factory needs to understand what is in the best interests of the children concerned. Dealing with child labour is an extremely complex matter, and the solutions required will vary from country to country, and from region to region, depending on the circumstances.

Immediate steps to be taken include:

- Remove the children from the production areas to a safe place within the factory, and ensure that they do not 'disappear' while solutions are being developed. Provide them with necessary accommodation, food and care until a suitable solution is found.
- Clarify the true identity and age of the children. Try and make contact with any parents, guardians or relatives to inform them of the situation and seek their assistance and instructions.
- Depending on the scale and nature of the problem, involve the local labour authorities. For example, in the case above, it would be critical to notify the local labour bureau and seek immediate assistance.
- Meet with buyers and any business partners, such as suppliers of materials and/or sub-contractors to explain the situation and seek assistance.
- Seek expert help in the development and implementation of solutions. There are a number of international agencies and NGOs with experience in managing child labour problems and developing intervention programmes that will both service the factory's needs and do what is in the best interests of the children concerned.

In the medium term:

- Completely review the recruitment and personnel practices to identify and remedy those procedures or lack of procedures which result in hiring of under-age workers.
- Build the remediation network – including local experts, trade unions and/or factory committees, government and non-government organisations and resources, health professionals, buyers – to develop the remediation programme.
- Consider the education requirements of the children; the availability of schooling and/or vocational training in the area; the possibility of hiring other members of the child's family and/or hiring back the children once they are legally employable (e.g. as juvenile workers).
- Brainstorm how the monitoring of any intervention programme can be designed and managed.
- Be prepared to take responsibility, which may involve considerable cost.

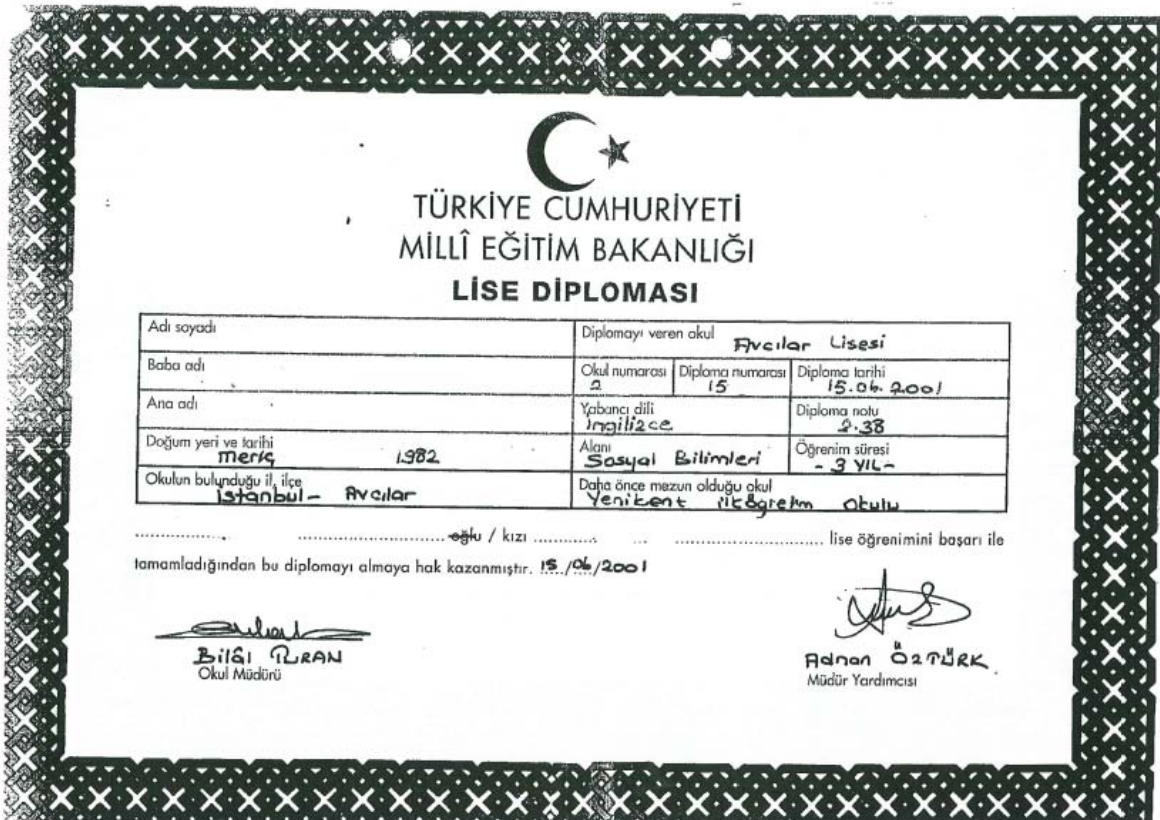


Figure 5 – Turkish Education Certificate

4.4 Discrimination

The Workplace Standards state:

Business partners must not discriminate in recruitment and employment practices. Decisions about hiring, salary, benefits, training opportunities, work assignments, advancement, discipline and termination must be based solely on ability to perform the job, rather than on the basis of personal characteristics or beliefs, such as race, national origin, gender, religion, age, disability, marital status, parental status, association membership, sexual orientation or political opinion. Additionally, business partners must implement effective measures to protect migrant employees against any form of discrimination and to provide appropriate support services that reflect their special status.

4.4.1 Common Terms

1. **Discrimination:** Any distinction, exclusion or preference based on a personal characteristic which deprives a person of access to equal opportunity or treatment in any area of employment.
2. **Post-hiring:** Includes any procedure, process, activity or terms and conditions in connection with employment after a person has been recruited. For example, training, promotion, transfer or disciplinary action.
3. **Association Membership:** Includes membership of a trade union, worker committee, or any other workplace group or organisation.
4. **Health Surveillance:** A programme of periodic medical examinations and relevant tests used to track the health status of an employee and/or the impact of any occupational risks, such as frequent exposure to noise or chemicals.
5. **Migrant Workers:** Individuals who move from one geographical area to another, in search of employment (or greater employment opportunities than can be found 'at home'), wishing to settle definitely or temporarily in a place other than their place of origin. A distinction may be drawn between internal or domestic migration and international migration. Internal/domestic migration is movement within the same country, from one administrative unit such as region, province or municipality, to another. International migration involves the crossing of one or several international borders, resulting in a change in the legal status of the individual worker. This definition does not include refugees, displaced persons or other persons that leave their country.

4.4.2 Relevant Legal Documents

United Nations

- § *Universal Declaration of Human Rights 1948*
- § *International Covenant on Civil and Political Rights 1966*
- § *International Covenant on Economic Social and Cultural Rights 1966*
- § *International Convention on the Elimination of all Forms of Racial Discrimination 1966*
- § *Convention on the Elimination of all Forms of Discrimination Against Women 1979*
- § *International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families 1990*

ILO

- § *Maternity Protection Convention 1919*
- § *Night Work (Women) (Revised) Convention 1948*
- § *Employment Services Convention 1948*
- § *Migration for Employment Convention (Revised) 1949*
- § *Equal Remuneration Convention 1951*
- § *Maternity Protection Convention (Revised) 1952*

- § *Discrimination (Employment and Occupation) Convention 1958*
- § *Migrant Workers (Supplementary Provisions) Convention 1975*
- § *Workers with Family Responsibilities Convention 1981*
- § *Termination of Employment Convention 1982*
- § *Vocational Rehabilitation and Employment (Disabled Persons) Convention 1983*
- § *Night Work Convention 1990*
- § *Private Employment Agencies Convention 1997*

4.4.3 Identifying Common Examples of Non-Compliance

Recruitment

- x References in recruitment notices or advertisements to age, marital status, military service, gender or other personal characteristics which are not related to the job specifications.
- x Requests for information on application forms or during interviews which is not related to a person's ability to perform the job or satisfy the job requirements.
- x Decision not to recruit based on a candidate's trade union affiliations or other characteristics, i.e. 'black-listing'.

Post-Hiring

- x Providing less favourable contract terms or work conditions based on a personal characteristic. For example, not providing equal pay for equal work to women on the basis of their gender.
- x Taking legal requirements and minimums into account, providing less favourable work terms or conditions to trainees, contract workers or migrants which is a potential form of indirect discrimination based on age ('trainees' are often younger, though not necessarily less skilled) or race/national origin, as in the case of many contract workers and/or migrant workers.
- x Transfer or demotion based on a personal characteristic, such as trade union membership.
- x Sexual, physical or verbal harassment or any other types of activity which create an intimidating, hostile or offensive work environment.

Pregnancy Testing / Medical Conditions

- x Testing workers for pregnancy during recruitment or post-hiring.
- x Unnecessary medical tests, i.e. carrying out medical tests which are not required by law.
- x Using the results of any medical tests which are required by law to dismiss a worker or otherwise treat the worker unfavourably.

Migrant Workers

- x Taking into consideration any legal requirements or national labour schemes under which either overseas or domestic migrants are recruited, treating migrant workers in a generally less favourable manner than local workers, in relation to employment terms and conditions, such as wage payments or work assignments, or to their living conditions, e.g. segregating migrant workers in dormitories which are more crowded, do not provide proper access to water and power, or to air and light, etc.

Termination

- x Dismissing a worker for anything other than job performance, breach of factory rules or general improper or illegal behaviour.
- x Specifically dismissing a worker for becoming pregnant or disabled.
- x Specifically dismissing a worker for attempting to establish a trade union or other worker association in the factory.
- x Dismissing a worker or workers for participating in a legal strike or stoppage.

- x Specifically dismissing a worker because he or she has contracted an illness or disease which either does not present a risk to other employees, or can be reasonably contained so as not to pose any risk or harm to the health of other employees.

4.4.4 Systems & Documentation

It is not possible for a factory to comply with the standard on Discrimination unless the factory uses a total quality management approach to the running of the factory. This approach should extend to factory regulations, HR and Personnel policies and procedures regarding recruitment, post-hiring and termination decisions, conducting performance evaluations, any types of legal and necessary medical tests which are carried out, and supervisor and management training.

4.4.5 Suggested Solutions

Recruitment

- ✓ Recruitment policies and procedures should focus on ability to do the job, job specifications, expected performance levels and employment terms and conditions, rather than personal characteristics.
- ✓ Application forms and recruitment notices or advertisements should contain information which is relevant to the job position and specifications only. Unless required by law, such documents should not include references to race, national origin, gender, religion, age, disability, marital status, parental status, association membership, sexual orientation or political opinion.
- ✓ During interviews, skills tests or other application processes, factory personnel should focus on work experience, ability to do the job and performance.

Post-Hiring

- ✓ Workers of the same experience and job classification should receive similar basic terms and conditions. For example, any differences in pay might relate to seniority, special skills, actual hours worked, degree of job difficulty or exposure to hazards, but not, for example, to gender, age or nationality.
- ✓ Access to benefits must be provided according to the law, and not withheld based on any personal characteristics. This includes provision of benefits to workers in special categories, such as trainees and contract workers. Taking into account legal requirements and minimums, such workers should not be discriminated against when it comes to work terms and conditions, and provision of benefits. *(See also additional guidance on Contract Workers, Section 5.1.2, and Trainees, Section 5.1.3.)*
- ✓ Decisions regarding access to training, transfer or rotation, promotion and demotion should be based on merit and discussed with the employee first.
- ✓ Train all staff with management responsibilities in factory policies regarding the work environment, use of proper language and behaviour, the factory disciplinary practices and the consequences for engaging in aggressive or offensive behaviour, and harassment of other employees.

Pregnancy & Medical Testing

- ✓ Pregnancy testing should not be conducted unless required by law or by the local authorities. If employees become pregnant in the course of their employment, they should be provided with all legal protections and benefits. The choice to work during the pregnancy (within the limits of the law), or to return after the birth of the child, is the employee's choice.
- ✓ Medical testing may be conducted only if it forms part of the health/medical surveillance programme at the workplace and is in accordance with the local law, or in the event of factory specific outbreaks of disease or illness. The type of testing must relate entirely to the health hazard being assessed. Where the employer provides, at its own cost, regular medical examinations or testing as a benefit, employees should be informed of the items that will be examined and consent to the examination.

Any occupational health surveillance programme must clearly define the necessary pre-placement, post-placement examinations and return-to-work examinations.

- ✓ Where individuals with certain job classifications are required by law to submit to specific medical testing, such as Hepatitis B virus testing for employees working in the factory canteen or clinic, the testing must be conducted in compliance with the law and free of charge for the employees. Such employees must be notified of the relevant legal policies before they are offered and accept employment. If such legal requirements are introduced after the employee has already commenced work at the factory, then briefings on the requirements should be provided to employees, together with a full explanation and update on the factory's privacy and confidentiality policy.
- ✓ Any tests which must be conducted by law or in the event of factory outbreaks should be conducted by properly trained medical staff.
- ✓ Employees must have access to the results of their examinations and personal medical files, and such information must be kept confidential. Results must not be released to any third party without the consent of the employee. Measures must be taken to insure confidentiality of test results. It is recommended that medical files are kept separately from personnel files, and only the medical staff may have access to those files.
- ✓ Where the medical testing is compulsory under law, and in the event that an employee tests positive for the diseases or condition, the factory must follow any local legal requirements relating to the treatment and protection of the employee (for example, provision of paid medical leave, or access to the factory clinic). If there are no specific legal requirements, then the employer:
 - Must not practice or tolerate any form of discrimination against the employee - it is highly recommended that all employees are educated about the nature of infectious diseases to reduce or even eliminate discriminatory behaviour among the workforce against infectious disease carriers.
 - Must not terminate the employee where his or her health status does not present a risk to other employees, or can be reasonably contained so as not to pose any risk or harm to the health of other employees - support should be given to those employees who are willing and able to perform their job, which may include a change of specific duties.
 - Should consider providing appropriate medical and financial assistance to the sick employee.
- ✓ In general, have a policy in place regarding the treatment and care of workers who are injured at work or become ill. Such a policy should deal with the privacy of the employee, provision of legally required benefits or compensation, non-discrimination against the employee, and any reasonable and lawful measures which should be taken if the employee's injury or illness poses a risk to the health of other employees.

Migrant Workers

- ✓ See also detailed guidance on Migrant Workers, Section 5.1.4.

Termination

- ✓ Discuss the reasons for termination with the employee and his or her superiors first.
- ✓ Establish a system of appeal within the management structure for employees to challenge unreasonable or unlawful dismissal.
- ✓ The ultimate decision to dismiss an employee must be based on work-related matters such as job performance, breach of factory rules or general behaviour. There should be clear documentation that shows the cause for the dismissal and the procedures followed.
- ✓ The full legal disciplinary procedures should be followed before termination of employment.

Documentation and Management Systems

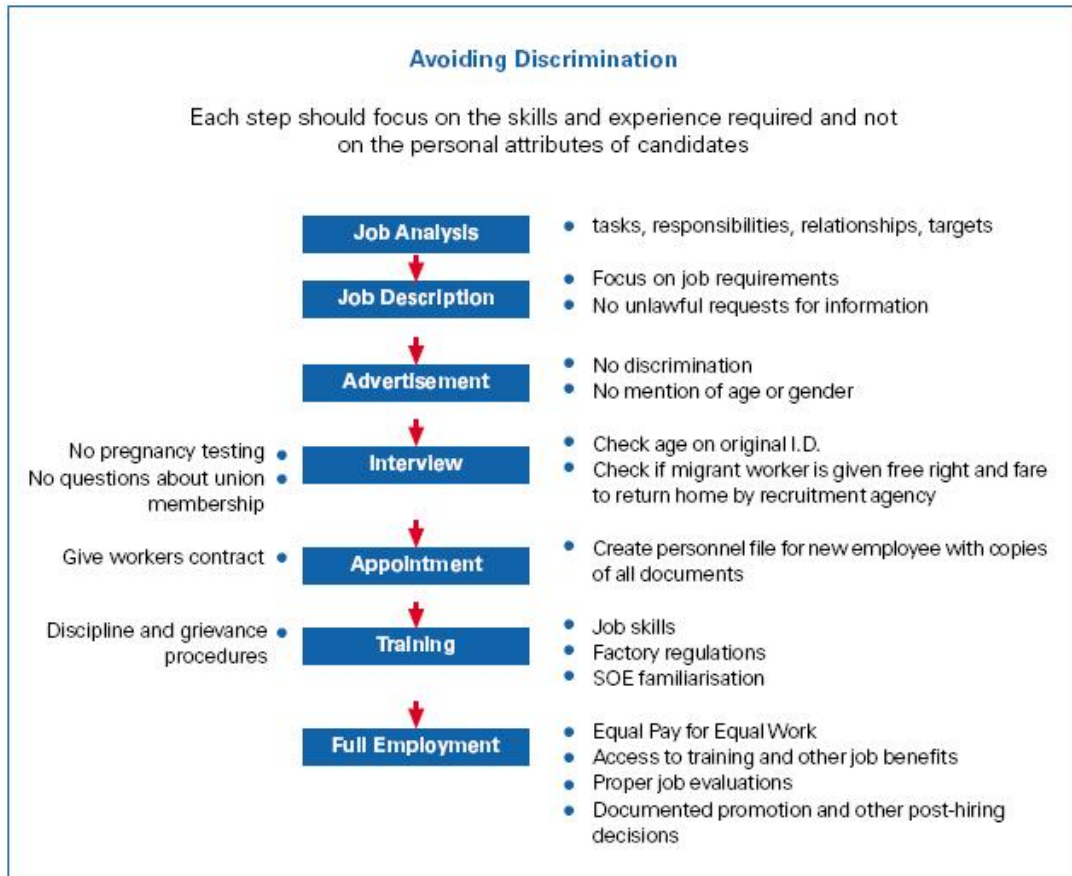
- ✓ Establish policies and procedures for all recruitment, post-hiring, medical testing and termination processes or activities. Relevant staff should be trained in the policies and procedures.
- ✓ Maintain good documentation regarding decisions such as to hire or not hire, transfer, promote or dismiss an employee. For example, rejected application forms should be kept on factory file.
- ✓ Consult applicants and employees at the time recruitment and post-hiring decisions are made.
- ✓ Keep copies of relevant documents, such as evaluations, transfer notices, annual leave applications or pregnancy benefits on centralised employee files or in a convenient and central location at the factory.
- ✓ Performance evaluation results should be signed by the respective employee to ensure transparency.
- ✓ Follow any legally required procedures in respect of all processes, in particular recruitment and dismissal, e.g. signing of contracts, notification to the union or local labour agency.
- ✓ Provide relevant information to employees, such as worker handbooks or supervisor training material. This information should explain the factory rules and procedures, and include appeal or grievance processes available to employees.
- ✓ Respect the privacy of employees and maintain the confidentiality of any personal information. Access to an employee's information must not be given to a third party, and should only be granted to the employee, a relevant staff member, or as required by law, e.g. to a government labour inspector or for the purposes of checking for child labour.

4.4.6 Documentation, Procedures and Systems – Evidence of Good Management

Factory Document Checklist

- ✓ Factory policies, e.g. Non-Discrimination Policy, policy of privacy & confidentiality, policy of treatment & care of workers injured at work or ill, medical testing policy
- ✓ Employment Advertisements and Notices
- ✓ Employment Applications
- ✓ Interview & Skills Test Forms
- ✓ Employment Contracts
- ✓ Performance Evaluations
- ✓ Termination Notices
- ✓ Disciplinary Procedures
- ✓ Factory Rules/Worker Handbook
- ✓ Medical Records
- ✓ Health Surveillance Plan and documentation
- ✓ Training records related to Discrimination Standards
- ✓ Local laws/regulations related to Discrimination Standards

4.4.7 Management Flowchart



4.4.8 Case Studies for Unacceptable, Acceptable and Best Practices in the Discrimination Standard

A. Medical Testing

New factory recruits are offered jobs on the basis that they take tests at the factory clinic for pregnancy and HBV. Several workers are not hired as they are found to be pregnant. One worker starts on the sewing line straight away due to tight production, but after four days, the HBV test results come back, and she is positive for Hepatitis B. The sewer is immediately dismissed.

What did the Factory Do Wrong?

The factory is not in compliance with the standard on Discrimination because the applicants' suitability for their jobs was made subject to the medical tests. Further, the termination of the sewer after she was discovered to be Hepatitis B positive was entirely inappropriate given that her condition posed no serious threat to the health and safety of other workers. In fact, under local law where the factory is based, refusing work to an HBV carrier is discriminatory and illegal. Pregnancy testing as part of the hiring process is a discriminatory practice.

What Should the Factory Do?

The successful job candidates are hired without having to take any tests. Their qualifications for the job are reviewed, including sewing knowledge, skill with a sewing machine, and ability to perform a variety of sewing operations.

After starting work at the factory several of the new recruits discover they are pregnant. Each employee meets with the Personnel department and discusses the maternity benefits available to her. They each continue to work in the various production departments until the start of maternity leave and any special requirements under law regarding occupational exposure are observed properly. For example, one of the workers is changed from the spot cleaning tables to another area in the sewing department. Each worker goes on her maternity leave and all of them except one return to their former job at the end of the leave. The worker who does not return decided to stay in her home town and work for her parents' company.

Before coming to the factory, the worker who is HBV positive began a nursing course at a local health services college, but was unable to finish due to financial pressures. She is now interested in applying for a supervisory position, a role which would also require her to act as the person-in-charge in the event of fire, and to have first hand knowledge of first aid and resuscitation where there is any accident in the workplace, such as electric shock or an employee suddenly stops breathing. Local regulations require such employees to obtain first aid certification and submit to several specific tests for medical conditions which might present a risk to employees in the event of any blood exchange.

The results come back and the worker is HBV positive. This information is known to the medical testing centre, the employee and the HR manager only. The HR manager discusses the results with the worker and they review the relevant factory policies together, in line with the specific functional requirements of acting as the person-in-charge for emergency situations. The policy regarding first aid treatment and emergencies is not clear on how to handle situations where the condition of a supervisory employee may present a health risk to other workers. Therefore, the HR manager consults with the factory clinic and other reliable resource centres, such as the local CDC, to determine the appropriate course of action and clearly define those areas where an HBV positive employee should not be involved in the administration of first aid or other emergency care. The HR manager also seeks advice from the appropriate resources on how to maintain confidentiality and privacy in relation to this matter.

Best Practice

The factory decides to review its policy and practices in relation to the care and treatment of employees with infectious diseases and other serious illnesses. The factory seeks expert advice and assistance on drafting a strategic plan which addresses public health issues and the needs of workers found to be infected with diseases such as HIV, Hepatitis and Tuberculosis. The plan also addresses the steps management should take where any outbreak of disease occurs.

Management also decides that as part of the public health strategy for the factory, employees will receive training on the key public health threats, the nature of transmission, the factory's anti-discrimination and privacy & confidentiality policies. In this way, management hopes to reduce any unnecessary concerns or fears of workers about their workmates and promote a positive and tolerant work environment.

B. Job Channeling

A job opening in the factory's embroidery department is posted internally. Three female sewing operators and a male mechanic apply. During the interview process with Personnel, it becomes apparent that two of the candidates (sewing operators) are very well qualified for the job.

When the department manager reviews the applications, he tells Personnel that he wants to hire the mechanic because the embroidery operator's position is a 'man's job'.

What did the Factory Do Wrong?

The department manager is channeling a person into a job based on gender and not ability to do the job or work performance.

What Should the Factory Do?

The Personnel department offers the manager ideas on how to make an objective and fair hiring decision. The department manager goes back and gives all three candidates a basic skills test. The two most qualified applicants are chosen and then they are given an aptitude and mechanical test to determine who is best qualified. The best candidate receives the job offer.

Copies of the evaluations and test results for the embroidery position are filed in the personnel folders of all the applicants.

Best Practice

The factory management develops programmes to motivate employees and provides cross training opportunities. This enables all qualified and willing employees to have access to tools that will help them gain increased wages, promotions, and opportunities to directly contribute to the factory's success.

In this instance, the factory's personnel department and the department manager met with the two unsuccessful applicants to identify the goals of the employees, and to develop a training programme that will prepare them for other job positions in the company.

C. Recruitment

The production manager's assistant is promoted to another position in the factory. As soon as he knows the assistant is moving, the manager goes to the personnel department to start recruitment for a replacement. He gives a job description to the personnel administrator:

"Young woman, early to mid twenties, wanted as the assistant to the Production Manager of an international manufacturing company. The successful candidate must be visually attractive, medium height, well dressed, bilingual, and able to travel occasionally. Ability to multi-task is a must, and other responsibilities include handling the production manager's personal errands."

What did the Factory Do Wrong?

The job description lists characteristics which do not relate to the job.

What Should the Factory Do?

The Personnel department explains to the production manager that they cannot advertise for the position, or any other position in the company, using subjective hiring criteria. The hiring criteria for the job must not include irrelevant personal characteristics. The manager then develops a job description that will accurately reflect a candidate's ability to do the job. The advertisement that is developed and posted states:

"Position: Assistant to the Production Manager of an international manufacturing company. The successful candidate must be confident and able to interact successfully with both management and production line employees. Occasional travel and bilingual language ability are required, as are the performance of multiple work tasks in a high-pressure, goal-oriented environment."

Best Practice

The factory's management system is updated to include guidelines for training any manager responsible for and included in the hiring process. The training focuses on the "dos" and "don'ts" of recruitment. There is specific attention given to decision making. It must be based strictly on someone's ability to do the job that they are applying for. The training is mandatory for all supervisors and managers and is conducted annually.

| | | |
|---|--|-----------------------------------|
| <p>TTGM Thai Tech Garment manufacturing Co., Ltd. บริษัท ไทย เทค การ์เม้นท์ แมนูแฟคเจอริ่ง จำกัด</p> <p>สำนักงานใหญ่: 163 อาคารรัชฎาภรณ์ ชั้น14 ซอยมวิท21(อโศก) คลองเตยเหนือ วัฒนา กรุงเทพฯ 10110 โทร. (02) 258-8011-12 โทรสาร (02)258-8013</p> <p>โรงงาน: 99/2 หมู่ 1 อ.สีคิ้ว-โคกชัย ต.ธงชัยเหนือ อ.ปักธงชัย จ.นครราชสีมา 30150 โทร. (044)284-667-9 โทรสาร (044)284-670</p> | | <p>รูปถ่าย 1" จำนวน 2 รูป</p> |
| <p>ใบสมัครงาน</p> <p>เลขที่.....</p> <p>หลักฐานการสมัครงาน 1.รูปถ่าย 1" 2รูป 2.สำเนาบัตรประชาชน 1 ใบ 3.สำเนาทะเบียนบ้าน 1 ใบ 4.สำเนาวุฒิการศึกษา 1 ใบ(ถ้ามี) 5.สำเนาใบผ่านงาน 1 ใบ(ถ้ามี)</p> <p>คำแนะนำ 1. โปรดอ่านข้อความให้ละเอียดก่อนที่จะกรอกใบสมัคร และกรอกข้อความให้ครบสมบูรณ์ และส่งคืนบริษัท หรือส่งใบสมัครไปที่บริษัทตามที่อยู่ข้างต้น</p> <p>2. กรณีที่มีหลักฐานไม่ครบถ้วนที่สามารถยื่นใบสมัครได้ โดยนำมาไว้ในภายหลัง</p> | | |
| สมัครตำแหน่ง..... | วันที่สมัคร..... | |
| ค่าจ้างที่ต้องการ.....บาท / วัน / เดือน | วันที่สามารถเริ่มงานได้..... | |
| <p>■ ประวัติส่วนตัว</p> <p>ชื่อ-สกุล โทรศัพท์.....</p> <p>ที่อยู่ปัจจุบัน.....</p> <p>ที่อยู่ตามทะเบียนบ้าน.....</p> <p>บัตรประชาชนเลขที่..... วันเดือนปีเกิด..... วันหมดอายุ.....</p> <p>ประสบการณ์ทำงาน</p> <p>ความสามารถพิเศษ/ความถนัด (ความเหมาะสมกับตำแหน่งงาน).....</p> <p>ข้าพเจ้าขอรับรองว่าข้อมูลข้อมูลที่กรอกนี้เป็นความจริงและถูกต้องทุกประการ</p> <p style="text-align: right;">ลงชื่อ.....ผู้สมัคร (.....)</p> | | |
| <p>ถ้าได้รับบริษัท</p> | | |
| <p>ผลทดสอบตาบอดสี <input type="checkbox"/> ปกติ <input type="checkbox"/> ตาบอดสี.....</p> <p>ผลการทดสอบทฤษฎี <input type="checkbox"/> ผ่าน <input type="checkbox"/> ไม่ผ่าน</p> <p>ผลการทดสอบปฏิบัติ <input type="checkbox"/> ผ่าน <input type="checkbox"/> ไม่ผ่าน</p> <p>(ทดสอบเฉพาะงานที่เกี่ยวข้อง)</p> <p>รายละเอียดที่ทดสอบ.....</p> <p>ลงชื่อ..... (ผู้ดำเนินการทดสอบ) วันที่...../...../.....</p> | <p>ว่าจ้างในตำแหน่ง.....</p> <p>วันเริ่มงาน.....ค่าจ้าง.....บาท.....</p> <p>อื่นๆ.....</p> <p>ลงชื่อ.....เจ้าหน้าที่สรรหาและว่าจ้าง วันที่...../...../.....</p> <p><input type="checkbox"/> อนุมัติ <input type="checkbox"/> ไม่อนุมัติ</p> <p>ลงชื่อ.....ผู้จัดการฝ่ายทรัพยากรบุคคล วันที่...../...../.....</p> | |

Figure 8 – Application Form in Thai

| 專業科目評核 (生產部門) Promotion Evaluation Report on profession (production department) | | | | | | | | | |
|---|------------------------|---|------------|--|---------------------------------|--------------------------------|--|---|---------------|
| 專業科目評核佔比60% Professional Appraisal:60% | | | | | | | | | |
| 職務/ID | 分類 Type | 科目 Item | Contents內容 | Excellent (10 Score) Good(8 Score) General(6 Score) less poor (4 Score) very poor(2 Score)優秀 (10分) 良好 (8分) 一般(6分) 較差 (4分) 極差(2分) | Score 評分 | score of column 本欄得 分 | Minimum requiremen Score最低要 求分數 | under basic score本項若低 於基本分 | 評述 Comment |
| | | | | 生管員/備料組 長/倉管員/文 員/機修/生產 組長/四職等專 員,課長,主任 Supervisors in Production, Prep aration, Wareho using, Clerks and Maintainess/abo ve level 4) | G e n e r a l | 學科 knowled gement | Lean相關知識與培訓 Lean knowledgement | 培訓與統一考核為總管理處,取得資格証後, 一年內可參加晉升,亦即資格証一年有效 (The employee who attend relevant training, pass the examination, obtain certificates, can be promoted within one year) | 15 |
| 每季第二個月提報晉升者開始接受一個月培訓,每周訓練兩天,每天兩小時,合計12小時,期滿考試,考試合格頒發精益訓練<Lean>合格資格証。 General training starting from the next month after declaring, 2 days/week, 2hours/day, tll 12hours. Who can be promoted when pass the Lean exam and obtain certificate. | | | | | | | | | |
| 學科 knowled gement | 基礎品管訓練Quality training | 培訓與統一考核為品保部,取得資格証後,一 年內可以參加晉升,亦即資格証一年有效 The employee who pass quality exam and obtain certificates, can be promoted within one year. | 15 | | | | 三職等11.25 分,四職等 12.75分 Level#3: 11.25 Level#4:12.75 | 停止考核 Stop exam | |
| 每季第二個月提報晉升者開始接受一個月培訓,每周訓練兩天,每天兩小時,合計12小時,期滿考試,考試合格頒發基礎品管合格資格証。 General training starting from the next month after declaring, 2 days/week, 2hours/day, tll 12hours. Who can be promoted when pass exam and obtain certificate. | | | | | | | | | |

Figure 10 - Professional Promotion Evaluation Form in Chinese

4.5 Wages & Benefits

The Workplace Standards state:

Wages must equal or exceed the minimum wage required by law or the prevailing industry wage, whichever is higher, and legally mandated benefits must be provided. In addition to compensation for regular working hours, employees must be compensated for overtime hours at the rate legally required in the country of manufacture or, in those countries where such laws do not exist, at a rate exceeding the regular hourly compensation rate. Wages are essential for meeting the basic needs of employees and reasonable savings and expenditure. We seek business partners who progressively raise employee living standards through improved wage systems, benefits, welfare programmes and other services, which enhance quality of life.

4.5.1 Common Terms

1. Discretionary Expenditure: An amount of money remaining once basic needs have been met, which may be used by employees as they choose, for example, toward education costs, purchase of a home or the development of a small business.
2. Prevailing Industry Wage: A wage level specific to an industry and dictated by the market. In the case of the sports footwear and apparel industries, the prevailing industry wage is often higher than the legal minimum wage.
3. Documenting Wage Payments: For the purposes of this Guideline, the process of recording all wage payments in an efficient and transparent manner and developing methods for providing workers with evidence of correct payment of wages by the factory.
4. Legally Mandated Benefits: Those benefits, such as annual leave social insurance and medical care which must be provided to employees by law.
5. Maternity Leave: The period during which a worker takes leave to give birth and/or care for an infant. In most jurisdictions, maternity leave is defined and usually ranges from 3 months to 1 year.
6. Back-payment: To pay workers money that is owed to them, due to non-payment, delayed payment or underpayment of wages.
7. Fair wage is a concept that promotes wage setting whereby an employee working a standard working week, without overtime or other additional income, is able to meet their basic needs and the needs of their immediate dependents.

4.5.2 Relevant Legal Documents

United Nations

- § *Universal Declaration of Human Rights 1948*
- § *International Covenant on Economic Social and Cultural Rights 1966*

ILO

- § *Protection of Wages Convention 1949*
- § *Social Security (Minimum Standards) Convention 1952*
- § *Maternity Protection Convention 1962*
- § *Equality of Treatment (Social Security) Convention 1962*
- § *Employment Injury Benefits Convention 1964*
- § *Invalidity, Old-age and Survivor's Benefits Convention 1967*
- § *Medical Care and Sickness Benefits Convention 1969*
- § *Minimum Wage Fixing Convention 1970;*
- § *Maintenance of Social Security Rights Convention 1982*
- § *Employment Promotion and Protection against Unemployment Convention 1988*
- § *Protection of Workers' Claims (Employer's Insolvency) Convention 1992*

4.5.3 Identifying Common Examples of Non-Compliance

Basic Wage

The factory pays workers less than the minimum wage or fails to implement increases in the minimum wage 'on time'.

- x Order fluctuation is used by the factory as the reason for not paying workers at legal minimum wage.
- x There is no distinction between regular working hours and overtime hours. Therefore, workers are not paid according to the legally required regular and overtime hourly rates.
- x The factory does not pay the correct regular or overtime piece-rates.
- x The factory pays wages "in kind". For example, workers receive rice and cooking oil instead of cash payments.
- x The factory delays payment of wages to workers.
- x The factory does not provide clear and detailed wage statements to workers.

Fair Wage

- x The factory does not develop an improved wage-setting system, even though there are productivity gains due, for example, to the implementation of LEAN manufacturing (See additional guidance on wage-setting mechanisms below).
- x The factory does not review its wages and benefits system annually.
- x Employee representatives are not involved in setting production quota and/or piece-rates.

Overtime

- x Workers are not paid according to the proper overtime hourly or overtime piece-rates.
- x Workers are not paid for all hours spent in the factory in production or job related activities, such as work meetings, training, pre-work physical exercises or post-work clean-up.
- x Any work performed on a rest day, national holiday or outside the usual factory schedule, due to unusual circumstances, is not compensated according to the proper legal overtime rates, e.g. 150%, 200% or 300%.

Benefits

- x The factory does not pay into retirement, social security or medical insurance funds, or does not pay such legally required benefits on time.
- x The social security, retirement or medical insurance fund contributions are not calculated correctly, i.e. they are not based on full wages.
- x Temporary or probationary workers do not receive the same basic benefits as permanent workers.
- x Workers are dismissed without notice and/or do not receive the legally mandated termination payments.
- x Workers are not provided sufficient breaks as required by law.
- x Workers do not have rest days on national or public holidays as required by law.
- x The factory canteen provides poor or sub-standard food quality.
- x The factory provides transport services, but does not exercise any control over the transport service, e.g. quality and safety of transport, or drivers charging workers random fees in addition to the payment drivers receive from the factory.

Maternity Leave

- x Female workers are not provided any, or adequate, maternity leave or other maternity benefits as required by law.

Deductions

- x The factory requires workers to pay for their uniforms out of their own wages.
- x Workers are required to compensate for missing goods out of their wages.
- x The factory lends money to workers, but there is no proper repayment plan and large amounts are deducted from the workers' wages as repayment.
- x The factory requires workers, in particular migrant workers, to pay a substantial fine if they resign before the end date of the employment contract. The fine is usually deducted from wages.
- x Factories deduct penalties from wages, for example if workers are late to work or make mistakes on production items. In some cases, factories do not allow the worker into the factory if he or she arrives later, resulting in no work for that day and the loss of one day's wages.
- x The factory deducts wages when a worker is absent due to sickness or in the event of an emergency or other necessary leave from work. In some cases the deduction is made automatically, regardless of whether the worker has provided notice. In other cases, the deduction is made in cases when the worker failed to give notice, but without following any specific procedure and without any regard for the specific circumstances of the worker.
- x Factories deduct unreasonable and/or unauthorised amounts from the workers' wages, e.g. in payment of work visas, recruitment fees, deposits on tools and equipment, or non-specified items.
- x Workers have to pay for drinking water, bath water in dormitories or other basic services, in addition to amounts that are already deducted for meals and accommodation.
- x The factory sets unrealistic production targets for workers and then makes deductions from wages if the targets are not met.

Training Wages

- x The factory pays training wages below the minimum wage.

Home Workers

- x The factory sends product out to home workers who are not paid according to the proper legal regular and overtime rates, and are not provided any of the legally mandated benefits. This aside, the use of homeworkers is prohibited.

4.5.4 Systems & Documentation

It is not possible for a factory to comply with the standard on wages and benefits unless the factory uses a total quality management approach to the running of the factory. This approach should extend to the payroll structure; wage setting; proper recording and documentation of time records: payroll and worker pay receipts; production targets, social security, medical and other insurance fund payments; and basic services and benefits such as maternity benefits, leaves, meals and accommodation, and transport. All employees should be provided information about the above items in a form and language that they understand. In particular, personnel and human resources staff and supervisors should be trained on this information.

4.5.5 Suggested Solutions

Basic Wage & Reasonable Savings

- ✓ Pay at least minimum wage or the prevailing industry wage, whichever is higher.
- ✓ Calculate all regular and overtime hourly rates, and any piece-rates according to the law, and set out in both the payroll and wage statement or pay slip which is provided to employees.
- ✓ Itemise other amounts, such as efficiency bonuses or special allowances clearly in both the payroll and wage statement/pay slip.
- ✓ Bonuses or other items should be clearly separated out from basic wages in the payroll.
- ✓ Wages must be paid in cash, by cheque or by direct transfer into the employee's account. If special deposit or savings accounts are set up by the factory for migrant or other workers, access to, and control over, the account must be given to the employee.
- ✓ Document wage payments. In recent years, payment methods have become more diverse and sophisticated. Many factories no longer pay workers in cash, but use direct banking and other electronic transfer systems. Regardless of what system is used, all payment information must be recorded and provided to workers in a form and language that they understand.
 - If the factory continues to pay workers in cash, then:
 - the worker must receive a detailed pay slip (see also figure 10 'BASREQ.doc' at the end of this section); and
 - the factory must be able to provide evidence of receipt of payment, e.g. workers sign the payroll when they receive and have verified the content of their pay packet.
 - If the factory pays workers by direct bank transfer or other forms of electronic payment into a dedicated account, then:
 - the worker must receive a detailed pay slip see also figure 10 'BASREQ.doc' at the end of this section); and
 - it is *not* necessary for workers to sign the payroll, as bank and other institutional statements serve as evidence of receipt of payment.
 - If the factory pays by cheque, then:
 - the worker must receive a detailed pay slip see also figure 10 'BASREQ.doc' at the end of this section); and
 - the factory must be able to provide evidence of receipt of the cheque, e.g. workers sign the payroll when they receive and have verified the amount on the pay cheque.
 - Any other method of payment should be discussed with the SEA Team to ensure that sufficient documentation systems are in place.
- ✓ Wages must be paid in a timely and reasonable manner, and always within the amount of time specified by local law.
 - A best practice would be to pay within 7-10 days after the end of the month. For example, wages for 1-31 January should be paid in full by 10 February.

Wage-Setting Mechanisms

- ✓ Are transparent and have direct input from the workers, ideally through negotiation or collective bargaining, or through alternative legal means, such as a workers' council or welfare committee.
- ✓ Acknowledge and reward workers for productivity gains and benchmark basic pay at a level that is higher than the local minimum wage and take into account data on general cost of living and workers' needs.
- ✓ Is part of a broader and an improved human resources management system.
- ✓ Meets all legally mandated benefits.
- ✓ Where practical, promotes and supports the development of worker cooperatives.

In developing a transparent wages and benefits system, the factory should:

- ✓ Consider all relevant operating factors, such as business turnover, legal requirements, job responsibilities, overtime, seniority, technical competence and team/individual performance, business.
- ✓ Consider and develop an internal performance management system and link performance evaluation results with incentive schemes.

Overtime

- ✓ Managers, supervisors, security guards and drivers should receive overtime payments unless it is written in the employment contract that the wage they earn is fixed, that it already takes into account a fair overtime allowance and is in accordance with local law. For all other workers, pay for all overtime hours worked regardless whether the factory pays on hourly rate or piece-rate.
- ✓ Any work performed on public holidays or Sundays should be paid at the premium legal rates, usually 200% or 300% of the regular rates.
- ✓ Any work related activities, such as meetings, training and cleaning must be paid as overtime if it is scheduled before the official start time or after production ends.

Back-Payments

- ✓ Where there is an increase in the minimum wage, factory management must implement the new wage from the effective date, otherwise the factory must make the necessary back-payments to workers for missing wages. Based on the general principle that suppliers should apply the local law or the adidas Group's Employment Standards, whichever is higher, waivers from local authorities in relation to minimum wage increases will not be recognised. This means that even if the supplier obtains approval from the local labour authority to continue using the 'old' minimum, or to delay implementation of the new minimum, we still expect suppliers to implement new minimum wages from the effective date.
- ✓ In the case of *non-payment* or *delayed payment*, management will be required to make back-payments from the time wages were withheld, or from the time that the manufacturer started supplying the adidas Group (whichever came last). Otherwise, the adidas Group cannot continue doing business with the factory.
- ✓ In the case of *underpayment* of wages:
 - Where management has failed to implement a minimum wage increase, back-payments must be made from the date that the increase was in effect.
Note: Factories are not permitted to reduce or withdraw other monetary benefits or allowances to offset minimum wage increases.
 - In such cases where the calculations, in particular for overtime, are not correct, management will be required to make back-payments as per local laws or from the date of notification to factory management of the correct calculations by the SEA Team, if the law is silent.
- ✓ The back-payment should include any interest payments required by law.

- ✓ The back-payment should also include an amount equal to the social security contributions that the factory was required to pay on behalf of workers. For example, if the factory is required to pay a certain percentage of the monthly wage into the national social security fund, an equivalent amount should be paid, together with the wage back-payment, directly to workers for the missing contributions, or to the national social security fund as required.
- ✓ Back-payments should be provided to any worker who has been underpaid or not paid at all, regardless of their employment status, for example, including temporary, contract or casual labour. *[See also additional guidance on Contract Workers, Section 5.1.2.]*
- ✓ Factories are expected to calculate all back-payments correctly, and develop proper action plans for making back-payments to workers as quickly and efficiently as possible. For example, the factory may stagger the back-payment over several months. However, the back-payment action plan must take into account any special circumstances. For example, if a worker leaves the factory, the complete amount owed to the worker should be included in one back-payment, together with the final wage payment. The SEA Team can assist management to develop the back-payment action plan if necessary.

Benefits

- ✓ Provide any social security, insurance or medical benefits as required by law. Any contributions which are based on, and deducted from, workers' monthly wages, must be set out in the payroll and workers' payslips.
- ✓ Probationary workers must receive the same entitlements and benefits as regular workers, even if not required by law.
- ✓ Taking into account legal requirements and minimums, trainees, contract and migrant workers should receive the same entitlements as regular workers. *[See also additional guidance on Trainees, Section 5.1.3; Contract Workers, Section 5.1.2, and Migrant Workers, Section 5.1.4.]*
- ✓ Workers who leave the factory or are dismissed must receive termination pay-outs or packages as required by law.
- ✓ Employees must receive sufficient breaks, national or public holidays, and any other leave to which they are legally entitled, e.g. marriage leave or sick leave.
- ✓ Female workers must be provided proper maternity and nursing benefits.
- ✓ Factory canteens should provide good quality and clean food.
- ✓ Any transportation provided should be safe and reliable. If the factory subcontracts services or pays the drivers wages, the factory should make sure that workers are not charged again by drivers for the transport services.

Maternity Leave

SPECIAL NOTE ON MATERNITY LEAVE

Workers must not be discriminated against on the basis of their gender, their marital status, or because they are pregnant or breastfeeding. Denying female workers maternity leave or dismissing a worker on the grounds of pregnancy or because she requires maternity leave is discriminatory. From a practical point of view, such discriminatory practices will result in the loss of valuable employees and contribute to higher turnover and increased costs associated with recruitment and training of new workers.

The workforce at supplier factories is mostly female and of reproductive age. Benefits such as maternity leave and pay are essential for the survival of the worker's family and the proper management of the factory. Maternity leave is a major concern for most female workers. Without paid maternity leave, workers are forced to find alternative income at a time when they are most vulnerable and as such may be damaging to the overall health and well-being of the female worker and her infant. Factories have a responsibility to protect their workers and to support the communities in which they operate.

Proper management of the workforce requires pragmatic planning of production schedules. If the majority of workers are female and of reproductive age, then management needs to take this into consideration when planning production lines, reviewing capacity, and developing its operational strategies. Management also must comply with any specific legal requirements in relation to reduced working hours for pregnant or lactating workers. Factories with strong policies providing paid maternity leave, which encourage workers to return to the factory, state that such workers are more likely to be loyal to the factory, and are more likely to remain in the factory for the long term because they have a family to support. As the shortage of workers continues and factories compete for labour, this should be a major consideration in the development of any strategic workforce plan.

- ✓ A worker must not be made to sign any form of guarantee letter, stating that she will:
 - not become pregnant, or
 - comply with a minimum service period before having a child, or
 - limit the number of children she intends to have, or
 - agree to limit the number of times she takes maternity leave.
- ✓ If the law does not require employers to provide maternity leave or where the law is silent, factory management must, at a minimum, provide three months leave at the minimum wage to female workers.
- ✓ Providing three months leave at the worker's current wage level (where the worker received more than minimum wage) would be considered best practice.
- ✓ Factories must have a proper policy in place, setting out the method for applying for maternity leave and for making maternity leave wage payments or settling medical claims in relation to pre-natal and post-natal care. Policies should conform to local laws and government social security schemes where they exist. There are various methods of payment, for example:
 - The factory transfers payments electronically to the worker's nominated account.
 - The factory provides 100% of the wages in advance and settles any medical claims upon return to work.
 - Worker provides written authority for a third party to collect wages and /or medical claim payments on her behalf.
- ✓ The factory must provide leave where a worker has miscarried. 1½ month's leave should be provided if the miscarriage occurs in the 2nd or 3rd trimester. The factory may request the worker to provide a doctor's certificate.

- ✓ Where the law is silent on the total number of hours to be worked by pregnant or breast-feeding workers, and does not provide any guidance on the protection of such workers, consult with the SEA Team regarding information and other resources. Factories are expected to manage workers during this period of their employment in a manner consistent with the basic standards set out in the international laws and guidelines noted above. For example:
 - Identify the areas in the factory and the job positions that are suitable and safe for pregnant workers.
 - The health of pregnant workers should be monitored periodically, with the consent of the worker, especially in situations where access to health care or medical specialists is limited.
 - Consider the total number of hours pregnant workers are expected to work. No worker may be forced to work overtime.
- ✓ Many factories provide transportation between the factory and workers' residential neighbourhoods. In relation to pregnant or breastfeeding workers who, as required by law or according to factory practice, may not work overtime or whose regular working hours are less than other workers, it is recommended that they take extended breaks during the day (so as not to exceed the total number of hours allowed to be worked) and then join other workers to be transported home. As a best practice, the factory would organise for alternative transportation where possible, to allow such workers to return home earlier.

Deductions

- ✓ Provide items such as uniforms, equipment or special protective gear free of charge.
- ✓ Payment for missing goods or damaged machinery must not be deducted from workers' wages under any circumstances.
- ✓ Any fees which migrant workers are required to pay, i.e. fees to obtain local work permits and visas and other legal requirement such as yearly medical examinations/check-ups, for example a work permit fee or residence visa fee, should be covered by the factory as the cost of doing business and hiring migrant labour. *(See also additional guidance on Migrant Workers, Section 5.1.4.)*
- ✓ Workers must not be fined for production mistakes or as a form of discipline. Suppliers should implement a progressive disciplinary system.
- ✓ Workers must not be fined or have their wages deducted for being late to work or for absenteeism. If a worker is late to work, the worker must not be refused entry to the factory. The factory should apply a progressive disciplinary system for any misconduct relating to frequent absenteeism. There should also be clear policies setting out the procedure for a worker to notify the factory within a reasonable period after the worker has been absent due to sickness or due to other personal reasons.
- ✓ If the factory provides an attendance bonus to motivate attendance and punctuality, then any deductions should be pro-rated for the day of absence or late arrival. If a worker loses the entire attendance bonus at the start of the work month, there is no incentive to arrive 'on time' for the rest of that month.
- ✓ Workers must not be fined or have their wages deducted for failure to meet production quotas or targets.
- ✓ Money must not be deducted from wages for drinking water, bath water or any other basic services.

Training Wages

- ✓ Do not hire workers under training agreements. New recruits should be hired as probationary workers and the factory must pay at least minimum wage during probation. *(See also additional guidance on Trainees, Section 5.1.3.)*
- ✓ Subject to passing the probationary period, a worker's seniority dates from the date of entry to the factory, i.e. at the start of the probationary period.
- ✓ The probationary period must be in compliance with local legal requirement, or, if the local law is silent, must be no longer than three months.

Home Workers

- ✓ Factories must not send work out to home workers.

Documentation & Management Systems

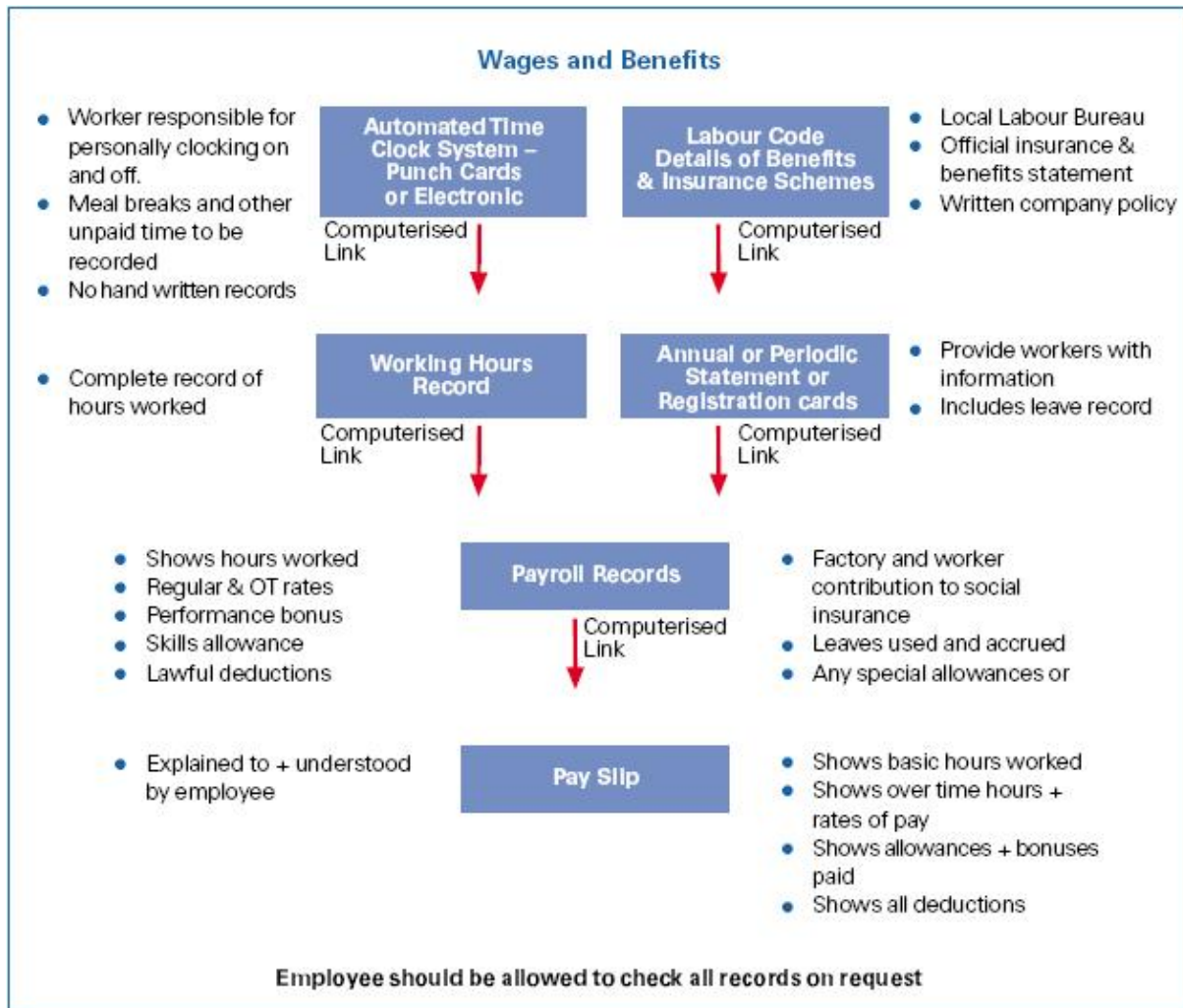
- ✓ The personnel department should maintain current copies of the labour law and contact the local labour bureau periodically regarding any increases in minimum wage or other amendments to the labour laws.
- ✓ Maintain payroll and time records on site.
- ✓ There should be a direct link between the time recording system and the payroll.
- ✓ The payroll and employee wage statements must contain all information necessary for an employee to calculate the monthly wages and allowances, including all lawful and reasonable deductions.
- ✓ Provide training to new workers regarding the wages and benefits that they should receive.
- ✓ Provide information on monetary and other benefits either in the payroll or in statements and registers. For example, the annual leave balance may appear on the employee pay slip. Taxation or social security balances may be provided in periodic statements.
- ✓ The wage structure should encourage good job performance rather than simply high volume.

4.5.6 Documentation, Procedures and Systems – Evidence of Good Management

Factory Document Checklist

- ✓ Payroll Records
- ✓ Pay slips (stubs)/bank transfer documents
- ✓ Performance Evaluations
- ✓ Employment Contracts
- ✓ Remuneration Policies
- ✓ Records of deductions, e.g. social security contributions
- ✓ Medical Records
- ✓ Benefit Allowance Records
- ✓ Leave policy, procedure, and application records related to leave
- ✓ Disciplinary policy and records
- ✓ Updated Manpower Status Report (e.g. turnover, number of worker of employments status, name list, job location, date of join, ID number)
- ✓ Training records related to Wages and Benefits Standards
- ✓ Local laws/regulations related to Wages and Benefits Standards.

4.5.7 Management Flowchart



4.5.8 Case Studies for Unacceptable, Acceptable and Best Practices in the Wages and Benefits Standard

A. Piece-Rate Wages

Factory XYZ pays wages on a piece-rate basis. The engineering department has done a time study of all operations and has established the piece-rate for different operations using a cost-per-minute analysis. The piece-rates are printed on tickets which are then attached to completed bundles. Workers take the tickets from the completed bundles and stick them to their daily work sheets. At the end of each day, workers hand in their work sheets to the line supervisor who passes them to the production department. The production department then forwards all the information to the payroll department where wages are calculated by multiplying the completed units by the unit piece-rate.

What did the Factory Do Wrong?

Minimum wages are based on a set number of work days per month and working hours per day. To determine whether workers earn a proper wage, based on the minimum wage, it is necessary to link the total number of hours worked during regular time and overtime with wages. The factory does not keep

time cards or rely on any other form of working hours record keeping. Therefore, there are no calculations relating to the working hours of employees. This means that there is no way to determine whether employees earn a proper wage based on the minimum wage or receive proper overtime payments.

What Should the Factory Do?

The factory installs an effective time recording system. At the end of each pay period, the production department forwards all information, including tickets and work sheets, to the payroll department. Payroll collects all time cards and records the total number of work hours for each employee. When the piece-rate tickets are multiplied by the unit piece-rate, the total piece-rate wages are divided by the number of hours worked by the employee. The result is the hourly rate. This amount is compared with the hourly rate calculated using the legal minimum wage to make sure that the employee's pay is equal to or exceeding the required minimum hourly wage. If the earned hourly rate for pieces is lower than legal hourly minimum, the employee is paid the difference. The difference is shown in a separate line item on the payroll and in the worker's wage statement.

If the employee has worked overtime hours during the pay period, the earned hourly rate for pieces should be multiplied by the premium overtime rates according to law. These rates must be used as the pay for overtime hours.

Best Practice

When the engineering staff conducts the work study to calculate unit piece-rates, they consider the size of the production run, realistic targets, production incentives and efficiency curves. Piece-rates are reviewed and studied on a regular basis to make sure they are accurate and representative of the production flow.

Any workers whose piece-rate earnings consistently do not meet or exceed the guaranteed legal hourly minimum receive special training. The training is designed to identify why the worker cannot achieve reasonable production targets and what technical steps are necessary to help the worker's performance improve.

B. Deductions

Employees of Factory ABC may borrow money from the factory company. The loan amount is deducted in instalments from the worker's weekly wages until the full loan amount is repaid. There is no loan limit so employees are able to borrow large amounts of money which sometimes exceed 200% of the regular weekly pay. The payroll department has a rule that all loans must be repaid in three equal instalments that are deducted from the employee's monthly pay.

The factory also charges interest, in excess of the prevailing interest rates, as well as 'adds on' any fines for production mistakes or for coming to work late. These amounts are also deducted from the workers wages.

What did the Factory Do Wrong?

The factory has no limit on the amount of money being borrowed by employees, and loan amounts often exceed the monthly pay amounts. The repayment deductions will dramatically reduce the workers take-home wages, while the amount still owed to the company will be extremely large.

At the same time, rather than relying on training schemes and proper supervision to resolve production mistakes, and a progressive disciplinary system to manage regular 'late comers', the factory fines workers and deducts the amounts from their wages. This is not allowed under the Workplace Standards.

What Should the Factory Do?

Factory management allows employees to borrow money but places a limit on the loan amounts – it must not exceed 15% of the regular monthly pay. When an employee borrows money, the payroll department completes a debit note that indicates the name of the employee, the amount borrowed, the date, the number of repayment instalments, and the due dates of the instalments. The payroll manager and the employee sign the debit note and copies are given to the employee, the payroll department, and the personnel department.

Loan repayments are shown as a deduction on the employee's wage statement. The line item should show the amount borrowed, the amount deducted for that pay period, and the outstanding loan balance.

Best Practice

A factory manager reviews the history and status of employee loans to ensure that employees are not incurring serious debt problems. The frequency of loans and the number of loans given each week is reviewed. If the frequency is high and a large number of employees request loans, the factory manager researches the reasons for this. The findings are reported and recommendations are made to the factory's senior manager regarding the need for, and management of, loans to employees.

C. Benefits

Under the national social security scheme, employers and employees are required to pay a percentage of the employee's wages as a joint contribution to the scheme. The employer's contribution is higher than the employee's. According to the law, employers deduct the employee's contribution from the weekly or monthly wages. This money is sent, together with the employer's payment, to the local office of the social security department. The employee's entitlements, e.g. the right to subsidise medical care, are determined by the total contribution made.

In this case, the employee contributes 5.5% of wages which covers medical, maternity, workplace injury, unemployment and retirement. To save money and give employees more of their earnings, the payroll department understates total employee wages on the social security registration. The understated wages are not less than the mandated minimum wage. Additionally, the employees are all informed by management about this arrangement. Since workers have more take-home wages, they support the practice.

What did the Factory Do Wrong?

Since an employee's benefits are based on a percentage of the wages, understating the wages means that the employee will not enjoy full entitlements. This has serious long-term consequences because even though the employee may receive higher take-home wages in the short term, their access to benefits in the future may be seriously reduced.

What Should the Factory Do?

The factory understands that social security contributions are the basis for an employee's future health and care. All employees are registered with the local social security department which is given accurate documentation showing wages earned. The factory regularly updates the minimum wage and all other registrations with the social security department. The management system includes employee training on benefit entitlements.

Best Practice

The factory decides that in addition to paying the employer's percentage of wages in social security payments, it will subsidise the employee's contribution. Quarterly, the payroll department gives each employee a statement showing year-to-date contributions made under the social security scheme.

The local medical clinic is quite a distance from some of the employee's homes, and the clinic hours are limited. Therefore, in addition to subsidising the legally mandated social security, management decides to provide employees and their family members free access to a clinic at the factory. The clinic offers complete medical services to any employee.

**BASIC PAY TRANSPARENCY REQUIREMENTS
(BASREQ.DOC)**

INTRODUCTION

This document, BASREQ.doc, sets out the basic minimum requirements in respect of:

1. The factory payroll; and
2. Wage statements or receipts.

There is no specific layout or format for the payroll or wage statement. Each factory may present the information in the format that best suits its needs. All credits and deductions must be set out clearly. Factories may include any other information, in addition to the basic requirements, as required by local law.

PAYROLL BASIC REQUIREMENTS

General

- Factory name.
- Departments in which employees are located.
- List all employees within each department and/or sub-section.
- Dates covered by the payroll (day/month/year).
- The print date of the payroll.
- The page number of the payroll sheet (i.e., each page must be numbered).

Specific

- ID number of employee.
- Name of employee.
- The total number of days worked during the pay period, including regular days, rest days and any national holidays worked.
- The basic salary, i.e. the minimum wage or basic salary of the employee, not inclusive of over time amounts earned or other bonuses and benefits.
- The basic hourly rate, i.e. the pay per hour based on the minimum wage or basic salary.
- The total number of regular overtime hours worked.
- The regular rate of overtime pay.
- The total number of rest day overtime hours worked.
- The rest day rate of over time pay.
- The total number of national holiday overtime hours worked.

- The national holiday rate of overtime pay.
- Any cash bonuses or cash allowances, e.g. hazardous allowance, meal allowance, productivity incentive. Each bonus or allowance type must be set out separately.
- Any paid leave taken, e.g. sick leave, annual leave or maternity leave.
- The gross pay.
- Any deductions for social and/or medical insurance.
- Any deductions for unemployment insurance.
- Any deductions for income tax.
- Any deductions for the cost of housing, e.g. dormitories.
- Any deductions for food and/or other subsidized items.
- Any deductions for legal union dues.
- The net pay.

PAYSLIP BASIC REQUIREMENTS

- Factory name
- Department of employee
- Dates of pay period
- Name of employee
- ID number of employee
- The basic salary, i.e. the minimum wage or basic salary of the employee.
- The regular rate of overtime pay and total number of regular over time hours.
- The rest day rate of overtime pay and total number of hours worked on rest day.
- The national holiday rate of overtime pay and total number of national holiday hours.
- Any production related allowances, e.g. productivity, quality.
- Any other cash allowances paid, e.g. meal, transportation.
- Paid Annual leave accrued/used/balance.
- Other paid leaves accrued/used/balance.
- Other unpaid leaves taken.
- Gross pay.
- Any deductions for social and/or medical insurance.
- Any deductions for unemployment insurance.
- Any deductions for income tax.
- Any deductions for the cost of housing, e.g. dormitories.
- Any deductions for food and/or other subsidized items.
- Any deductions for legal union dues.
- The net pay

Figure 11 – Basic Pay Transparency Requirement ("BASREQ.DOC")

PHÒNG NHÂN SỰ

PHIẾU LƯƠNG THÁNG

| Ngày công | Ngày in | | | | | | | | | |
|-----------|---------|----|----|----|----|----|----|----|----|----|
| | 01 | 02 | 03 | 04 | 05 | 06 | 07 | 08 | 09 | 10 |
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| | | | | | | | | | | |

1) Mã nhân viên

2) Họ và tên

3) Phòng/VN: ngày vào làm

4) Lương cơ bản

26) Ứng kỳ 1

27) Ứng kỳ 2

28) Bảo hiểm Xã hội 5%

29) Bảo hiểm Y tế 1%

30) Thuế thu nhập

31) Phí công đoàn

32) Khoản trừ khác

33) TỔNG THU NHẬP
34) TỔNG KHẤU TRỪ

35) THỰC LÃNH

- 1) Mã nhân viên: (Mã công nhân viên được cho một mã số)
- 2) Họ và tên: (Họ và tên công nhân viên)
- 3) Phòng ban/Tổ: (Nơi làm việc)
- 4) Lương cơ bản: (Lương hợp đồng)
- 5) Tổng số ngày làm việc trong tháng = 26 ngày – Số ngày nghỉ không lương
- 6) OT 1.5 = Tổng giờ tăng ca ngày thường = [(Lương CB/26/8) x Số giờ tăng ca x 150%]
- 7) OT 2.0 = Tổng giờ tăng ca ngày Chủ Nhật = [(Lương CB/26/8) x Số giờ tăng ca x 200%]
- 8) OT 0.3 = Phụ cấp làm ca đêm = [(Lương CB/26/8) x Số giờ làm ca đêm x 30%]
- 9) OT 1.3 = Lương làm việc ca đêm = [(Lương CB/26/8) x Số giờ tăng ca x 130%]
- 10) OT 1.9% = Tổng giờ tăng ca đêm = [(Lương CB/26/8) x Số giờ tăng ca x 195%]
- 11) OT 3.0 = Tổng số giờ tăng ca ngày lễ = [(Lương CB/26/8) x Số giờ tăng ca x 300%]
- 12) Break = Tổng giờ giải lao trong tháng = [(Lương CB/26/8) x Số giờ giải lao x 150%]
- 13) Phép năm còn lại = Tổng số ngày phép năm trong năm – Tổng số ngày phép năm đã nghỉ
- 14) Tổng giờ tăng ca của năm = Tổng giờ tăng ca từ tháng 1 đến tháng 12 trong năm

❖ **CÁC KHOẢN THU NHẬP TRONG THÁNG:**

- 15) Lương ngày công = Lương CB/26 x Tổng số ngày làm việc (5)
- 16) Lương ngoài giờ = (6) + (7) + (8) + (9) + (10) + (11)
- 17) Lương giải lao = (12) (Nếu tham gia tăng ca trên 2 tiếng/ngày)
- 18) Phụ cấp trách nhiệm: (nếu có)
- 19) Phụ cấp đa kỹ năng/NN = 50.000đ (khi đạt trong kỳ thi đa kỹ năng)
- 20) Phụ cấp chuyên cần = 50.000đ (Làm đủ ngày công trong tháng và không vi phạm nội quy công ty)
- 21) Phụ cấp năng suất = Tất cả các tiền thưởng khi làm trong chuyên đạt năng suất
- 22) Phụ cấp thâm niên: 20.000đ → 100.000đ (khi làm việc đủ 01 năm trở lên)
- 23) Phụ cấp khác: (nếu có)
- 24) 17% BHXH trả lại = Lương cơ bản/26 x số ngày làm thủ việc trong tháng x 17%
- 25) Khoản cộng khác: (nếu có)

(33) TỔNG THU NHẬP = (15) + (16) + (17) + (18) + (19) + (20) + (21) + (22) + (23) + (24) + (25)

❖ **CÁC KHOẢN PHẢI TRỪ TRONG THÁNG:**

- 26) Ứng kỳ 1 = 150.000đ (được trả vào ngày 20 hàng tháng, áp dụng cho CN và chuyên trường)
- 27) Ứng kỳ 2
- 28) BHXH 5% = Lương cơ bản x 5% (Công ty đóng 15% BHXH cho người lao động)
- 29) BHYT 1% = Lương cơ bản x 1% (Công ty đóng 2% BHYT cho người lao động)
- 30) Thuế thu nhập = (Tổng thu nhập - 5.000.000) x 10%
- 31) Phí công đoàn (nếu là đoàn viên): 5.000đ
- 32) Khoản trừ khác

(34) TỔNG KHẤU TRỪ = (26) + (27) + (28) + (29) + (30) + (31) + (32)

(35) THỰC LÃNH = (33) TỔNG THU NHẬP - (34) TỔNG KHẤU TRỪ

BAN GIÁM ĐỐC
(Đã ký)

Figure 12 – Information on wage calculation in Vietnamese. It is posted on the SEA, Canteen and Trade Union Notice Boards at a factory in Vietnam.

वेतन पर्ची/PAY SLIP

| | | | | | |
|---|--|------------------------------------|--|----------------------------------|--|
| कोड/Code | | नाम/Name | | करावी म. क्रमांक/E.S.I. Ins. No. | |
| पित/अति का नाम Father's/Husband's Name | | मिशन विधि/अति क्रमांक/P.F. A/C No. | | 26224 | |
| पद/Designation | | कार्य दिवस/Wage days | | 27.0+ 0.0+ 4.0=31.0 | |
| श्रेणी/Grade | | मास/Month | | JULY 2004 | |
| | | मुदतान का प्रकार/Mode of Payment | | CHEQUE | |

| कुल वेतन/Total Salary | दर/Rate | कमाना वेतन/ Earning | Arrear Rate | Arrear Earning | कटौतियाँ/Deductions | शेष/Amount | Arrear Deduction | शेष वेतन/Net Pay |
|-----------------------------|-----------------|------------------------|----------------|-------------------|--------------------------|---------------|---------------------|------------------|
| मूल वेतन/Basic Pay | 5500.00 | 5500.00 | | | क. र. कोष/E.S.I. | 0.00 | | |
| मकान किराया भत्ता/H.R.A. | 2750.00 | 2750.00 | | | भविष्य निधि/P.F. | 660.00 | | |
| यात्रा भाटा/Conveyance All. | 1650.00 | 1650.00 | | | अग्रिम कर/T.D.S. | 0.00 | | |
| चिकित्सा भाटा/Medical All. | 1100.00 | 1100.00 | | | अग्रिम कर/Advance | 0.00 | | |
| सिद्ध शिक्षा भाटा/C.E. All. | | | | | अन्य कटौतियाँ/Other Ded. | 0.00 | | |
| अन्य भाटा/Other Allowance | 0.00 | 0.00 | | | P.L.W.I | 1.00 | | |
| उप योग/Sub Total | 11000.00 | 11000.00 | | | | 661.00 | | |
| अतिमूल घंटे/O.T. Hours | 0.00 | 0.00 | | | करावी/Ded ES | 0.00 | | |
| कुल योग/Total | 11000.00 | 11000.00 | | | | 661.00 | | 10339.00 |

Figure 13 – Pay Slip in Indian

November 2008 Payroll
(2008. 11. 01 ~ 2008. 11. 30)

| No. | Name | Wage | Payroll | | | | | | | | Deduction | | | | | | Total deduction | Total receipt from deduction | | |
|-----|-------|-------|---------|------------|------------|-----------|------------|-----------|---------|-----------|------------|--------------|------------------|--------------------------|-----------------|------------------|-----------------|------------------------------|------------|--------|
| | | | 기공근무 | | 정당+특별(1.2) | | 연장+특별(1.5) | | 기타특별근로 | | income tax | resident tax | health insurance | long-term rehabilitation | citizen pension | hiring insurance | | | | |
| | | | hour | wage | hour | wage | hour | wage | hour | wage | | | | | | | | | | |
| 1 | 김영수 | - | - | 2,920,000 | - | - | - | - | - | 2,920,000 | 120,290 | 12,020 | 74,180 | 3,000 | 132,300 | 15,140 | 354,870 | 2,565,130 | | |
| 2 | 이영수 | - | - | 2,000,000 | - | - | - | - | - | 2,000,000 | 31,190 | 3,110 | 47,410 | 1,920 | 70,200 | 9,000 | 182,830 | 1,817,170 | | |
| 3 | 정영수 | 4,790 | 200.0 | 950,000 | 12.0 | 71,290 | 18.0 | 114,000 | 96.0 | 86,600 | 1,201,790 | 4,910 | 490 | 30,910 | 1,290 | 47,700 | 5,400 | 90,990 | 1,110,200 | |
| 4 | 김영수 | 4,450 | 209.0 | 930,050 | 18.0 | 89,900 | 20.0 | 193,600 | 96.0 | 82,500 | 1,214,850 | 4,970 | 490 | 28,370 | 1,140 | 44,950 | 5,460 | 84,980 | 1,129,870 | |
| 5 | 김영수 | 3,890 | 207.8 | 805,100 | 20.0 | 87,000 | 26.5 | 194,290 | 96.0 | 84,320 | 1,110,890 | 3,420 | 340 | 23,480 | 960 | 38,260 | 4,990 | 71,410 | 1,039,240 | |
| 6 | 김영수 | 4,790 | 209.0 | 950,790 | 18.0 | 89,900 | 22.0 | 198,790 | 96.0 | 86,600 | 1,311,000 | 7,300 | 730 | 27,900 | 1,120 | 47,700 | 5,890 | 90,640 | 1,220,360 | |
| 7 | 김영수 | 4,800 | 209.0 | 961,400 | 20.0 | 119,890 | 22.0 | 198,700 | 96.0 | 84,400 | 1,299,600 | 6,990 | 690 | 26,300 | 1,060 | 47,700 | 5,840 | 89,460 | 1,210,040 | |
| 8 | 김영수 | 3,890 | 199.0 | 749,840 | 19.0 | 82,190 | 20.0 | 119,400 | 96.0 | 84,320 | 1,011,710 | 1,870 | 180 | 20,900 | 840 | 38,250 | 4,560 | 68,990 | 946,120 | |
| 9 | 김영수 | 3,770 | 208.0 | 784,180 | 18.0 | 79,400 | 21.0 | 118,760 | 84.0 | 80,320 | 1,036,640 | 2,290 | 220 | 18,890 | 780 | 38,250 | 4,670 | 65,010 | 971,630 | |
| 10 | 김영수 | 4,800 | 209.0 | 961,400 | 20.0 | 119,890 | 27.0 | 198,800 | 96.0 | 84,400 | 1,327,100 | 7,720 | 770 | 19,160 | 770 | 59,090 | 5,970 | 92,440 | 1,234,660 | |
| 11 | 이영수 | 4,450 | 209.0 | 930,050 | 20.0 | 111,890 | 26.0 | 199,890 | 96.0 | 82,500 | 1,270,490 | 6,190 | 610 | 31,790 | 1,290 | 59,090 | 5,710 | 103,610 | 1,166,870 | |
| 12 | 김영수 | 3,770 | 208.0 | 784,180 | 18.0 | 79,400 | 24.0 | 136,720 | 84.0 | 80,320 | 1,066,600 | 2,670 | 260 | 26,420 | 1,020 | 44,950 | 4,790 | 78,660 | 977,040 | |
| 13 | 김영수 | 4,800 | 209.0 | 961,400 | 20.0 | 119,890 | 27.0 | 198,800 | 96.0 | 84,400 | 1,327,100 | 7,720 | 770 | 31,790 | 1,290 | 59,090 | 5,970 | 103,610 | 1,223,290 | |
| 14 | 김영수 | - | 209.0 | 1,900,000 | 20.0 | - | 19.5 | - | - | - | 1,900,000 | 12,020 | 1,200 | 48,260 | 1,960 | 86,600 | 6,560 | 157,480 | 1,742,520 | |
| 15 | 김영수 | 5,500 | 209.0 | 1,149,500 | 20.0 | 167,400 | 31.0 | 294,790 | 96.0 | 77,000 | 1,619,790 | 19,790 | 1,970 | 38,890 | 1,490 | 66,340 | 7,280 | 128,960 | 1,490,830 | |
| 16 | 김영수 | 4,800 | 209.0 | 961,400 | 18.0 | 82,000 | 22.0 | 161,800 | 91.5 | 69,200 | 1,261,200 | 6,900 | 690 | 31,790 | 1,290 | 59,090 | 5,690 | 101,620 | 1,160,040 | |
| 17 | 김영수 | - | - | 1,200,000 | - | - | - | - | - | 1,200,000 | 4,910 | 490 | 30,480 | 1,290 | 64,000 | 5,400 | 98,400 | 1,101,600 | | |
| 18 | 김영수 | 4,450 | 209.0 | 930,050 | 20.0 | 111,890 | 23.0 | 193,690 | 96.0 | 83,400 | 1,248,230 | 5,510 | 550 | 30,740 | 1,240 | 54,450 | 5,810 | 99,100 | 1,150,130 | |
| 19 | 김영수 | 4,450 | 209.0 | 930,050 | 18.0 | 89,900 | 23.0 | 193,690 | 96.0 | 83,400 | 1,226,990 | 5,200 | 520 | 30,740 | 1,240 | 54,450 | 5,810 | 97,660 | 1,128,330 | |
| 20 | 김영수 | 4,800 | 209.0 | 961,400 | 18.0 | 82,000 | 22.0 | 161,800 | 40.0 | 48,000 | 1,261,200 | 6,620 | 660 | 31,790 | 1,290 | 59,090 | 5,830 | 101,160 | 1,160,040 | |
| 21 | 김영수 | 5,500 | 209.0 | 1,159,500 | 18.0 | 169,900 | 26.0 | 293,790 | 96.0 | 78,000 | 1,610,290 | 22,890 | 2,290 | 44,900 | 1,910 | 79,660 | 8,140 | 159,690 | 1,450,600 | |
| 22 | 김영수 | 3,790 | 209.0 | 790,020 | 18.0 | 79,800 | 26.0 | 141,790 | 40.0 | 37,800 | 1,046,170 | -2,410 | 240 | 26,110 | 1,060 | 48,260 | 4,700 | 90,770 | 954,400 | |
| 23 | 이영수 | 3,890 | - | - | - | - | - | - | - | 96.0 | 84,320 | 84,320 | 0 | 0 | -26,800 | -1,040 | 0 | 240 | -26,600 | 80,920 |
| 24 | Total | | | 24,910,230 | 339.0 | 1,770,000 | 442.0 | 2,079,480 | 1,096.0 | 1,194,090 | 30,707,710 | 287,290 | 28,640 | 892,270 | 27,920 | 1,147,990 | 139,090 | 2,448,190 | 28,269,520 | |

Figure 14 – Payroll in Korean



Figure 15 – Bank transfer document in Chinese
It shows the date of wages being transferred into bank accounts and the total amount.

4.6 Hours of Work

The Workplace Standards state:

Employees must not be required, except in extraordinary circumstances, to work more than 60 hours per week including overtime or the local legal requirement, whichever is less. Employees must be allowed at least 24 consecutive hours rest within every 7 day period, and must receive paid annual leave.

4.6.1 Common Terms

1. Extraordinary Circumstances: Events which are extremely unusual, including earthquakes, floods, fires, riots and demonstrations, and in some cases severe power failures. Events which happen frequently, such as interrupted electrical supply or late delivery of materials, do not constitute extraordinary circumstances. May also be referred to as unusual or emergency circumstances.
2. Overtime: Most countries specify a 40 – 48 hour work week. Any work which is performed after the regular working hours during the week or on Saturdays and Sundays or on mandatory holidays is considered to be overtime.
3. Annual leave: A certain number of paid days per year given to a worker, as time off from his or her occupation, for the purpose of rest or recreation.

4. Employee: For the purposes of this standard, 'employee' includes all persons hired directly by the factory, as well as those categories of workers and other staff on site who may be hired by contractors or special service providers, such as canteen staff, drivers, engineers, electricians, etc.

4.6.2 Relevant Legal Documents

United Nations

- § *Universal Declaration of Human Rights 1948*
- § *International Covenant on Economic Social and Cultural Rights 1966*

ILO

- § *Holidays with Pay (Revised) Convention 1970*
- § *Night Work Convention 1990*
- § *Part Time Work Convention 1994*
- § *Home Work Convention 1996*

4.6.3 Identifying Common Examples of Non-Compliance

Regular Hours

- x The factory does not have a reliable time recording system, such as mechanical time clocks (punch card time records), electronic or magnetic card time keeping, or a scanner system.
- x The factory does not have an established weekly work schedule or does not inform the workforce of the schedule in advance.
- x Supervisors manually record the working hours of workers and this information is transferred to the payroll department. There is no way for workers to verify their work hours.
- x Even where there is a mechanical or electronic time recording system, supervisors or line chiefs punch or swipe workers' cards. Workers are not responsible for filling out their own time sheets, punching their own work cards or scanning/swiping their electronic cards to record work start and finish times.

Overtime Hours

- x The factory time recording system does not accurately distinguish between regular time and overtime working hours.
- x The factory does not have a proper system for supervisors to request overtime work and inform the workforce in advance.
- x The factory does not obtain the permission of, or keep copies of exemptions from, the local government authority permitting overtime work in excess of the local legal limits.
- x The factory does not obtain permission from the union to work overtime in excess of the usual factory schedule.
- x Workers do not feel free to refuse overtime, and supervisors do not receive any training regarding voluntary overtime policies.
- x Work related activities such as morning exercises, pre-work or lunch time meetings, clean-up after production has finished are not recorded as part of the working hours, specifically as overtime.

Excessive Hours

- x Workers work more than 60 hours per week on a regular basis.
- x The factory does not provide proper breaks as required by law, which contributes to the excessive number of hours being worked.

- x Production targets are based on excessive working hours and not on the amount of production which can be achieved in a regular work day.
- x The factory increases the production targets during peak season and workers are forced to work long hours.
- x Workers work more than one shift or in excess of the local laws on overtime, and the factory uses two sets of time cards to conceal the excessive working hours.

Extraordinary Circumstances & Swapping Days

- x Workers are required to work on rest days and public holidays, or perform excessive overtime, to make up for lost time due to regular power outages. The factory claims the power shortages constitute 'unusual circumstances', even though they occur frequently during the summer months, and the factory often receives advance notification from the local authorities.
- x The factory does not distinguish between extraordinary circumstances and business related problems which interfere with the production schedule and, as a result, has no proper policies and procedures in place for dealing with such cases.
- x The factory has no clear system in place for managing swapping of rest days with work days around national and/or religious holidays, and as a result no clear policy on the payment for work on those swapped days, leading to confusion amongst workers and non-compliance with the Standards on wage payments and working hours.

Rest Day

- x Workers do not have one full day (24 consecutive hours) rest per week.
- x Workers do not receive a replacement rest day for exceptional overtime.
- x The factory regularly swaps the weekly rest day with a normal work day due to material delays or to suit other production needs, but the work is not paid at the rest day rates.

Annual Leave/Public Holidays

- x The factory fails to provide annual leave to workers, or refuses requests for annual leave that do not coincide with periods of a factory-wide closure without a strong reason behind the refusal such as urgent tasks to accomplish.
- x The factory provides annual leave on request or during periods of factory closure, but it is not paid.
- x The factory encourages workers to take a pay-out of their annual leave instead of actually providing time off from work.
- x Factories do not give workers all national holidays off as required by law.
- x Alternatively, the factory swaps the national holidays with normal work days to suit production needs, but does not pay the proper national holiday rates.

4.6.4 Systems & Documentation

It is not possible for a factory to comply with the standard on Hours of Work unless the factory uses a total quality management approach to the running of the factory. This approach should extend to the control of the factory work schedule; the time recording system and payroll department procedure; setting of production targets; training of supervisors in overtime request procedures; and policies on the rest day and legally mandated leaves. Human resources and personnel staff must be responsible for teaching supervisors and workers how to use time cards or other work recording systems effectively. Additionally, management must be able to link production schedules to receipt of orders and delivery of materials. If the factory does not coordinate these links properly, it will be extremely difficult for the factory to work within the 60 hours per week limit and provide rest days and holidays according to the law.

4.6.5 Suggested Solutions

Regular Hours

- ✓ All employees should be responsible for recording their own work hours. This means that workers should 'clock on' and 'clock off' for themselves. Additionally, they should be given a chance to review the total number of hours worked in a pay period. Therefore, work hours should be set out in the payroll and on payslips.
- ✓ Use a reliable, automated time recording system, such as mechanical time clocks (punch card time records), electronic or magnetic card time keeping, or scanning systems. *(See also additional guidance on Fingerprinting & Scanning, Section 5.2.3.)*
- ✓ The automated system should be linked directly to the payroll.
- ✓ Establish a weekly work schedule which all employees are advised about.

Overtime Hours

- ✓ The automated time recording system should have the capacity to distinguish between regular and overtime hours. If this is not possible, the payroll department and personnel must have proper systems in place for calculating and double-checking the regular hours and overtime hours worked by employees.
- ✓ Supervisor overtime request forms or other hand written documents relating to working hours should be cross-checked against the time records which are collected electronically.
- ✓ Obtain any necessary permits from the local labour authorities to work in excess of the legal limits, in particular where the local legal maximum number of hours is below the adidas Group's weekly maximum of 60 hours.
- ✓ Communicate with any unions present in the factory about the work schedule and seek consent to any overtime outside the normal work schedule.
- ✓ If required by local law, or where there is no effective union, workers should demonstrate that they are willing to work overtime by signing a voluntary overtime work form.
- ✓ The voluntary overtime policy should be clearly stated in the worker handbook and included in orientation training and repeat training on basic workplace practices for supervisors.
- ✓ The factory should have a mechanism under which workers can report any case of forced overtime, and the mechanism should ensure that there is no retaliation against workers.
- ✓ Workers should be clearly instructed to record their start times before any morning exercises, pre-work meetings or after work cleaning so that these hours are recorded and paid as overtime.

SPECIAL NOTE ON TIME RECORDING

The current requirement is for 4-6 'punches' (mechanical time cards) or 'swipes' (electronic recording).

| | | | | | |
|---------|-------|-----------|--------|----------|--------|
| Morning | Lunch | End Lunch | Finish | | |
| ✓ | ✓ | ✓ | ✓ | | |
| Morning | Lunch | End Lunch | Dinner | Start OT | Finish |
| ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |

Why?

- Transparent time records
- Monitoring by SEA
- Monitoring by Independent External Monitor (IEM)
- Ensure that workers are not working during lunch or dinner breaks
- Ensure no before-work or after-hours work, meetings, etc.

Problems

- 4-6 punches do not really guarantee that there is no work-related activity during breaks or outside working hours
- Some complaints from workers (shortens their lunch break)
- Factory management often disagrees with requirement

Recommendation

- If no OT, 2 'punches' are okay
- If OT, then a dinner time punch is still required, i.e. 3 punches in total

| | | | | | |
|---------|-------|-----------|--------|----------|--------|
| Morning | Lunch | End Lunch | Finish | | |
| ✓ | | | ✓ | | |
| Morning | Lunch | End Lunch | Dinner | Start OT | Finish |
| ✓ | | | ✓ | | ✓ |

Note: The dinner time punch is necessary because not all workers do OT, not all workers do the same amount of OT, and not all workers will take their dinner break at the same time.

If factories want to implement this recommendation, the conditions for doing so are set out below:

- ✓ The factory must have implemented an electronic time recording system which is linked to the payroll.
- ✓ For small scale factories with 20 or fewer workers, using a mechanical time clock, i.e. punch card system, is acceptable. However, the factory must demonstrate that there is a system for transferring data from time records to the payroll, and a system for double checking the regular and overtime work hours. For example, the use of manual/handwritten time records for cross-checking purposes.
- ✓ For those types of work that require the employee to start earlier or later than he or she can access the time recording system, handwritten records showing the workers signature are acceptable. (For instance, drivers who start work and pick up employees before arriving at the factory and 'clocking on'.)
- ✓ The factory must have a fixed lunch schedule which is clearly understood by all workers.
- ✓ No meetings, catch-up, cleaning to be done before or after hours, or during breaks.

- ✓ A '15-minute window' is allowed in which all employees must 'clock on' or 'clock off'. This is a reasonable amount of time for workers to enter the factory, record their time of entry and attend the production area. Any times recorded outside the '15-minute window' are to be regarded as records of time worked outside the regular schedule and paid at the appropriate overtime rates.
- ✓ The factory must have a sufficient number of time recording machines in proper locations. Staggering dinner times for different departments is another alternative to allow workers to clock out and back in more quickly and not lose break time.
- ✓ **Factories which cannot comply with the conditions, must continue to use the previously set requirement of 4-6 punches.**

Excessive Hours

- ✓ Evaluate factory capacity and the productivity of the current workforce at the time orders are confirmed. Production targets should be set at reasonable levels and able to be met within a 60-hour work week.
- ✓ Ensure that employees use their breaks properly. In order to make sure that workers and supervisors do not undertake unauthorised lunch time or dinner time work, the factory can shut down the electricity in production areas, close production room doors and provide alternative rest and recreation areas for workers.
- ✓ Ensure the health and safety of employees by not allowing multiple shift work.

4.6.6 Extraordinary Circumstances & Swapping Days

SPECIAL NOTE ON EXTRAORDINARY CIRCUMSTANCES

The labour laws in most of the countries where we do business provide a definition or examples of what is meant by extraordinary, or unusual, circumstances. Typically, they refer to floods, earthquakes, fires, social upheaval (such as demonstrations or riots), and outbreaks of disease or ill health, i.e. events which are generally beyond anyone's control. Recent examples would be SARS, the Asian tsunami, the severe typhoons which have been experienced in the region over the last few years, and factory breakouts of cholera and food poisoning. Extraordinary Circumstances does not include supply chain problems, non-delivery/late delivery of materials, delays caused by production or quality problems or break-downs of machinery, failure to accurately state real capacity, or other problems which are generally within the responsibility or control of, or could be prevented by, management.

In Extraordinary Circumstances, we expect that our suppliers will notify adidas Group Sourcing and SEA (or the relevant business unit which places the orders at the factory). As good practice, Sourcing staff from the adidas Group or its business partners and licensee and the SEA Team should share such information to ensure that both teams are kept up-to-date and can offer the supplier support.

Note: In relation to power shortages or outages, please see the case studies section below.

The factory must still provide one day off within every seven day period. This means that a factory would be able to work a maximum of 12 consecutive days. Please see the example directly below.

| Sun | Mon | Tues | Wed | Thurs | Fri | Sat |
|-----|-----|------|-----|-------|-----|-----|
| x | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | x |
| x | x | ✓ | ✓ | ✓ | ✓ | ✓ |

Note: The Monday highlighted green is the compensation day off for the Sunday worked, highlighted orange.

- ✓ The compensation day off must be provided within one month of the extra day worked, and preferably as early as possible after the extra day worked.
- ✓ The factory must not work more than 12 hours maximum per day or the legal daily maximum (i.e. follow the stricter standard).
- ✓ The factory must pay the correct overtime, weekend or holiday pay rates according to the local laws, as well as the compensation day off, i.e. the day not worked – this must not be deducted from the monthly wage.
- ✓ The factory must comply with any requirements of the local labour authorities in relation to work beyond the local legal limits. For example, the factory must obtain the local labour bureau 'exemption' or waiver for work in excess of the legal limits.
- ✓ The adidas Group requirements apply only where the law is silent, unclear or less strict than the rules directly above. If the local legal requirements are stricter, than the local law prevails.

SPECIAL NOTE ON SWAPPING DAYS FOR EXTENDED HOLIDAYS

In many countries, it has become the practice to swap rest days with work days in order to provide management and employees with extended holidays. Typically, this happens during Lunar New Year, Christmas, Idul Fitri and around labour days and other significant national holidays.

- ✓ The factory must notify SEA of the production/holiday schedule and that the 'one day off' rule still applies.
- ✓ If the change in production schedule (resulting in 'swapping days') is in line with a government, industry or industrial zone sponsored practice to accommodate special religious or national holidays, then it is not necessary to pay the correct overtime premiums on any rest day or holiday swapped with a regular work day. Otherwise, the correct overtime premiums are applied.
- ✓ Any overtime performed on a public holiday or 'swapped rest day' should be done voluntarily. Therefore, the factory must provide documentation which evidences worker consent, e.g. where there is a valid union in the workplace, the union may provide consent/agreement on behalf of workers. Where there is no valid worker representative organisation in the factory, management must ensure that workers sign a collective agreement stating that the workforce has agreed to the change in production schedule to accommodate the holiday period, at the normal pay rates. Such cases should be followed-up by worker interviews and other monitoring.
- ✓ In relation to any other public holidays or swapped rest days which do not fall within the scheme described above, compensation rest days must be provided to workers who perform overtime on a public holiday or 'swapped rest day'.
- ✓ In some cases, where the factory provides additional leave to workers, in conjunction with a scheduled factory closure, e.g. factory breaks Monday to Thursday, the factory decides to provide the Friday as leave also, and deducts this from the annual leave entitlement, with worker consent. See notes above regarding documentary evidence required.

Rest Day

- ✓ One full day (24 hours) of rest within every 7-day period.
- ✓ Establish the weekly rest day and arrange the work week schedule around the rest day.
- ✓ Ensure that employees with special work arrangements such as engineers, security guards and cooks receive a rostered day off within every 7-day period and that their total working hours do not exceed 60 hours each week.

Annual Leave/Public Holidays

- ✓ The purpose of annual leave is to ensure that employees have a reasonable period of rest and recreation following each year of employment to maintain work-life balance. Employees are normally expected to take their full annual holiday entitlement within the year following its accrual. The factory must encourage workers to use their annual leave entitlement instead of accepting monetary compensation in lieu of annual leave. Nonetheless, any unused annual leave must be paid out in full.
- ✓ Check the local legal requirements for annual leave, for all categories of workers. There may be different entitlements, depending on seniority and other factors.
(Note: Factories must not terminate employment to avoid certain benefits such as an increase in annual leave based on seniority.)
- ✓ The factory must have a proper annual leave policy in place, including an annual leave management scheme for new workers who, under law, have not completed the period of service necessary to start taking annual leave. The policy should include a procedure that defines the steps for workers to give notification in advance before taking annual leave. As soon as the workers become entitled to take leave as per law, they must be allowed to request and take the annual leave, unless the request is not sufficient in advance as per the legal requirements.
- ✓ Check local laws or industry schemes that allow the factory to schedule the annual leave of workers by department or at certain times of the year. Usually, it is necessary to consult with, and seek the approval of, any unions in the workplace, to ensure that there is no 'forced' annual leave. Alternatively, ensure that there is a systematic method for consulting workers and informing them of any scheduled factory breaks or rostered holidays in advance.
- ✓ Similarly, if national holidays are swapped with regular work days to maximise scheduled annual leave or factory closures during national holidays, ensure that workers are in agreement and that this agreement is recorded. (See the notes above on Swapping Days for Extended Holidays.)
- ✓ In those cases directly above where annual leave is scheduled for a new worker who may not have accrued any leave under law, the factory may deduct this leave from the entitlement when it becomes available, or as good practice, may simply pay any new worker for that day since the holiday was not at the worker's request but scheduled by the factory.
- ✓ Other categories of paid leave available to workers, such as emergency leave or sick leave must not be deducted against annual leave.
- ✓ Attendance bonuses or other incentive schemes should not be affected by a worker exercising his or her right to take annual leave. For example, if a worker requests 1-2 days annual leave, the worker should not lose the attendance bonus for that month, due to absence on the days taken as annual leave.
- ✓ In cases where a worker resigns or the employment contract is terminated by the factory, the factory may calculate on a pro-rated basis the number of days which should be taken as leave or pay out the unused leave.
- ✓ The factory must set up a leave record system whereby workers can properly track an individual record. As good practice, the annual leave balance may appear on the employee pay slip. However, it is the worker's responsibility to complete any leave application forms by themselves.
- ✓ As best practice, the factory can adopt a pro-active approach by distributing a quarterly annual leave tracking report for each worker, containing days of work in that quarter, accumulated annual leaves and any other leave/absenteeism in the quarter, enabling workers and supervisors to work together to ensure that any leaves are well planned and executed accordingly.

Documentation & Management Systems

- ✓ Ensure that there is a direct link between electronic or automated time recording systems and the payroll. In the event that there is no automated time recording system, the factory must demonstrate that there is a system for transferring data from work hour records to the payroll, and a system for double-checking the regular and overtime work hours.

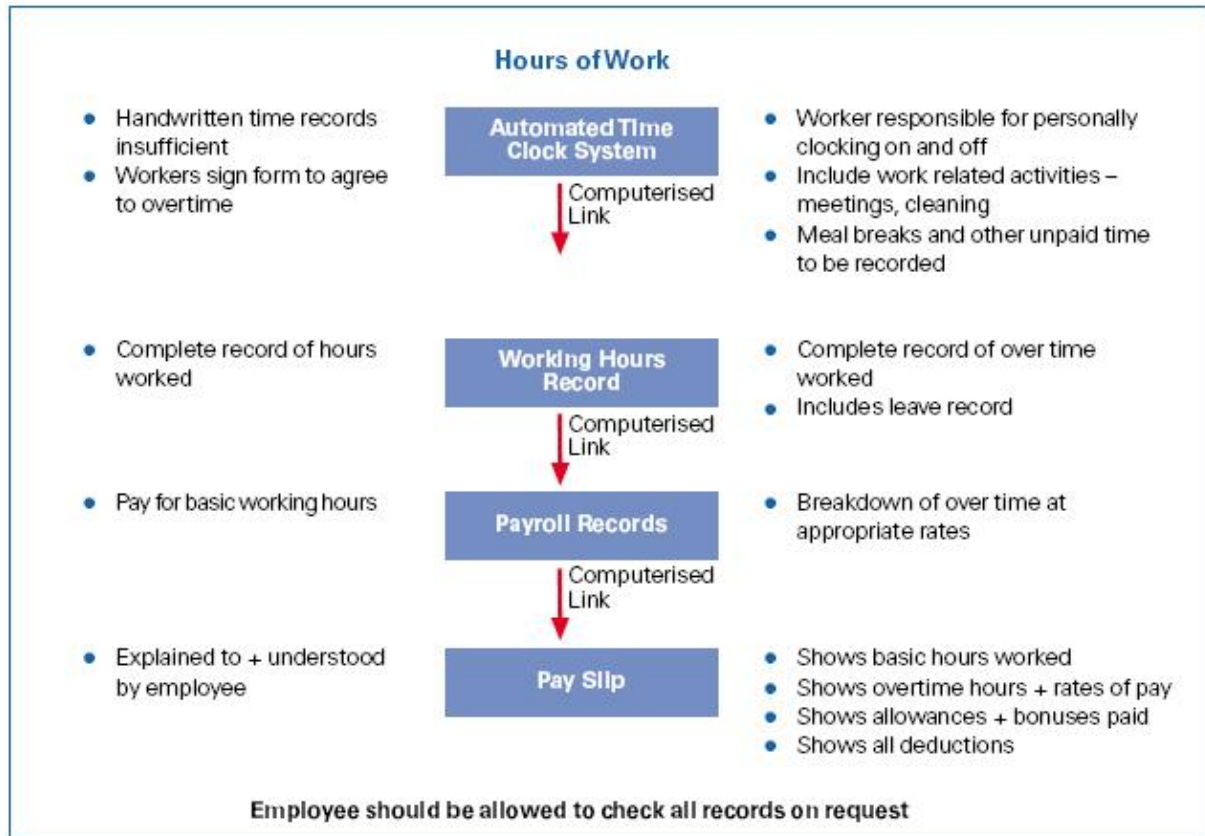
- ✓ Where directed by SEA follow the requirements set out in BASREQ.doc. *(See also figure 10 in the previous Wages and Benefits section.)*
- ✓ Ensure that no double time card or payroll systems are used.
- ✓ Any departments on shift work must ensure that employees are not working multiple shifts.
- ✓ Develop an approval system for work outside the usual factory schedule. For example, if work is required in excess of the 60 hour limit or on a rest day, the work request should be reviewed and approved by several levels of management. The policy for doing so must contain the conditions upon which requests for work outside the normal factory schedule will be granted, e.g. compensation days off must be provided, and/or additional work bonuses will be provided to workers.
- ✓ Maintain hourly records and payroll in good condition and on site for at least three years or where the period is more than three years, in accordance with local law.
- ✓ Establish production target and productivity levels which are based on a regular work week and not excessive overtime.
- ✓ Encourage workers to keep their own daily working hour records. Print out a statement of the working hours for workers to check before they receive their pay.
- ✓ Good communication with workers is essential. Notify workers in advance of the weekly work schedule, annual leave rosters and factory closures, and if the factory intends to swap work days with rest days or public holidays. Explanation should be provided and consent sought before the factory makes any changes or manages the extraordinary or emergency circumstances. In many cases, employees will provide valuable suggestions for managing the production problems.

4.6.7 Documentation, Procedures and Systems – Evidence of Good Management

Factory Document Checklist

- ✓ Production Schedule
- ✓ Capacity Forecast Documentation
- ✓ Time Records
- ✓ Payroll/Pay slip Records
- ✓ Overtime Approval Forms
- ✓ Monthly Overtime Summary Reports
- ✓ Annual Leave Balance Tracking Tool
- ✓ Leave policy, procedure, and application records related to leave
- ✓ Communication records on working hours arrangement
- ✓ Training records related to Working Hours Standards
- ✓ Local laws/regulations related to Working Hours Standards

4.6.8 Management Flowchart



4.6.9 Case Studies for Unacceptable, Acceptable and Best Practices in the Hours of Work Standard

A. Documented Working Hours

The employees of Factory ABC sign an attendance sheet when they arrive for work, and again when they leave the factory at the end of the day. The production supervisors keep the attendance sheets, calculate the total work hours each day and hand the attendance sheets to the payroll department at the end of each work week. The payroll department uses the weekly attendance sheets to calculate employees' working hours for the pay period.

What did the Factory Do Wrong?

The factory does not have a proper time recording system which will guarantee proper payment of wages. The current procedure relies too heavily on data entry by supervisors and the payroll department. This may lead to serious errors and inefficiencies. Additionally, under the Workplace Standards, employees must be responsible for recording their own work times, rather than relying on supervisors or other staff to keep records for them.

What Should the Factory Do?

In order to accurately record the working hours of factory employees, it is necessary to have an objective system, method or tool for recording hours, for example, mechanical time clock systems, electronic card scanners, and hand or thumb print readers. Because these systems can be linked more directly to a payroll and do not rely completely on human data entry, they are more objective and more accurate.

Factory ABC has installed a time clock and issues a time card to all employees so they 'punch in' when they arrive for work, and 'punch out' when they leave at the end of the day. Time cards are collected at the end of the work week, employees review all the 'in' and 'out' entries for accuracy and then sign the time card. The payroll department collects the time cards and uses them to calculate the employees' working hours for that pay period.

Time cards are archived in the payroll department for three years before they are discarded.

Best Practice

Factory ABC has installed an electronic time recording system. All employees are issued plastic ID cards which have a magnetic strip on the back identifying the employee by name and employee number. When employees arrive or leave at the end of their work shift, they swipe their ID card through the time clocks at key locations in and around the production area. The arrival and departure times are recorded by a computer. The computer software is able to automatically calculate all regular and overtime work hours and is linked directly with the payroll department software. Employees review a computer print-out of their working hours at the end of every pay period and they sign the print-out indicating the recorded hours are correct.

B. Working Before or After Scheduled Working Hours

Employees at Factory GHK try to get a good start on the next day's production by continuing to work after the end of their scheduled shift. Some workers cannot stay because they have a long bus ride home. Instead they come in early the next morning and start working before their shift. Management has scheduled the work hours and does not pay workers for their extra work before and after the scheduled shifts. The factory manager states that he does not require workers to start early or finish late and that they do this voluntarily.

What did the Factory Do Wrong?

The factory is taking advantage of the workers' willingness to work extra hours. The factory does not pay workers for the additional time worked before and after scheduled shifts. Even though these hours are not scheduled, and the manager said that he does not require workers to work extra time, it is clear that the production targets place pressure on workers. Even if they volunteer to work before or after their own shift, they must be paid for all hours worked.

What Should the Factory Do?

Management develops a flexible schedule that allows employees to start early or finish later than their scheduled hours. This extra time is recorded in their working hours at the correct regular and overtime rates. To control overtime and prevent excessive work hours, the policy for scheduled working hours limits the extra time to 30 minutes before and 30 minutes after a scheduled shift.

Best Practice

Management at Factory GHK observes that many workers are starting work early before their scheduled shift or staying after the end of the shift to continue working. Overtime costs have been increasing due to the extra work time. When the factory manager speaks with some of the workers, she finds out that many of them need to work the extra time so that they can achieve the production quotas. Using guidelines from the company's management system, she directs the production manager and factory engineer to review the production targets. They examine the production efficiencies to determine if realistic productions targets are set by management. The factory manager also asks the personnel department to study employee commuting patterns and transport time-tables to determine whether adjustment to the scheduled working hours would eliminate workers starting early or leaving later.

C. Power Failures

The cases below deal exclusively with power shortages/outages and rearrangement of production schedules.

| | |
|--|--|
| <p>Scenario A The local government (usually the local power authority) gives advance notice that the factory will be subject to power shortages on a certain weekday (for example Thursday) 4 weeks in a row, or even longer. The factory wants to swap the Thursday 'no power days' with the weekly rest day, i.e. Sunday.</p> | <ul style="list-style-type: none"> ✓ Acceptable. Factory to notify/provide supporting docs to Sourcing and SEA or the relevant business unit which places the orders at the factory. ✓ Requires advance notice, and proposed schedule must clearly state which dates will be swapped. ✓ Payment – no change. Acceptable to swap Thursdays with Sundays with no impact on pay rates. Thursday will be considered the official rest day for the specified period. ✓ Schedule must be communicated very clearly (orally and in writing). Notice period: best practice = one month for workers, and one to two weeks for the adidas Group/buyer. ✓ Only applies to cases of 4 WEEKS or more. |
| <p>Scenario B Same case as above, but the notice is for 1, 2 or 3 Thursdays only.</p> | <ul style="list-style-type: none"> ✓ Follow the Swapping Days for Business Purposes requirements. ✓ BUT NO COMPENSATION DAY NECESSARY ✓ *This is an exception to the normal requirements, to take into account the fact that it is entirely impractical/impossible to grant the compensation day off under such power failure circumstances. |
| <p>Scenario C The local power authority provides no advance notice and there is a sudden power failure in the factory. Workers are sent home and the factory schedules the next Sunday as a work day to make up for the lost production time. What happens if workers are sent home: a) within 1 hour of arriving at the factory? b) after lunch?</p> | <ul style="list-style-type: none"> ✓ Same as scenario B, i.e. Swapping Days for Business Purposes requirements apply. ✓ Pay full wages for the 'power off day' (regardless of what time it happens/workers stop work, or are sent home). ✓ Pay the proper rates on Sunday. |

Scenario D

This is a real case presented to SEA by a factory in 2005. Due to power shortages, the factory planned to readjust the rest days as set out below:

| Sun | M | T | W | Th | F | Sat |
|-----|----|----|----|----|----|-----|
| | | 1 | 2 | 3 | 4 | 5 |
| | | | | A | | |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| | B | | | | A | |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| | | B | | | | A |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| | | | B | | | |
| 27 | 28 | 29 | 30 | 31 | | |
| A | | | | B | | |

* **Blue** font is power cut day; **A** is rest day; **B** is half-day work with 200% overtime rate.

- ✓ Completely rejected by SEA on the basis that the most basic principle of a regular rest day was not observed.
- ✓ The factory is required to consult with SEA and Sourcing on a proper production schedule and rest day schedule.

Scenario E

The factory suffers power failures every four days or so for approx. four months each year, during the summer months when pressure on the electrical grid is highest. The factory operates three shifts. On the days where this is a power failure, day shifts A and B do not work, and only the night shift operates. This year, based on discussions with the SEA Team, the factory plans to manage this situation better, and to create a shift schedule and communicate it to the workforce one month early.

| Sun | M | T | W | Th | F | Sat |
|-----|----|----|----|----|----|-----|
| | | 1 | 2 | 3 | 4 | 5 |
| | | | | A | | |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| | B | | | | A | |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| | | B | | | | A |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| | | | B | | | |
| 27 | 28 | 29 | 30 | 31 | | |
| A | | | | B | | |

- ✓ Neither Extraordinary Circumstances nor Swapping Days applies to this scenario.
- ✓ If SEA is to advise properly on the working hours arrangements during the summer period, field staff require full information from the factory management. For example:
 - a) Are there any alternative energy sources/ will the factory install a generator?
 - b) What does the complete work schedule/shift arrangement look like?
 - c) Does it comply with the SEA Standards? Is there any H&S risk to workers?
 - d) What are the local legal requirements regarding nights shifts?

| | | | | | | | |
|--|----------|----------|----------|-----------|----------|------------|---|
| <p>Scenario F Local government/power authority does not specify the day(s) on which the power will be cut. They only indicate that there is a range of days for possible black-outs (similar to Scenarios A & B).</p> | | | | | | | <ul style="list-style-type: none"> ✓ This is a highly specialised case. ✓ The clearest solution is to install a generator. ✓ It is not acceptable to have a different rest day every week with no prior notice to workers. |
| Sun | M | T | W | Th | F | Sat | |
| | | | X | ? | ? | | |
| | | | ? | X | ? | | |
| | | | X | ? | ? | | |
| | | | X | ? | ? | | |
| | | | ? | ? | X | | |

| CASE | BASIC REQUIREMENTS |
|--|--|
| <p>1. UNUSUAL CIRCUMSTANCES (Events which are beyond anyone's control, e.g. flood, earthquake, fire, riot, demonstration)</p> | <ul style="list-style-type: none"> ✓ CM Approval Form* ✓ One day off (12 days consecutive work possible) asterisk ✓ 12 hr daily max or legal limit ✓ Voluntary ✓ Pay correct OT, weekend and Holiday rates ✓ If work day swapped with rest day, no need to pay for the day not worked ✓ Comply with local labour authority requirement |
| <p>2. SWAPPING DAYS & OT (Circumstances which interfere with the prod. schedule & cause delays, e.g. no proper system, mtrl delay, adidas practices contributes to the problem)</p> | <ul style="list-style-type: none"> ✓ CM Approval Form* ✓ One day off (12 days consecutive work possible) ✓ 12 hr daily max or legal limit ✓ Voluntary ✓ Compensation day off must be provided ✓ weekly max: 66 hrs (FW); 72 hrs (APP; A&G) ✓ Pay correct OT, weekend and Holiday rates ✓ Comply with local labour authority requirement |
| <p>3. NATIONAL HOLIDAYS (Practice to swap rest day with work days in order to provide management & employees with extended holidays)</p> | <ul style="list-style-type: none"> ✗ No need CM Approval, but notify SEA ✓ One day off (12 days consecutive work possible) ✓ IF in line with govt/industry/zone practice, no need to pay correct OT, weekend or holiday rates ✓ Voluntary ✓ Doc. process ✓ Possible to deduct additional leave days provided from annual leave with worker consent |

Figure 16 – Summary of requirements table for Unusual Circumstances and Swapping Days (applies only where directed by SEA)

November 2008 attendance - 2

| Dept | No | Name | Date working hours | | Remaining hours | | Total hours Remaining | 1 (Sat)=2(Sun) | | | 2(Sat)=1(Sun) | | | 3(Sat)=1(Sun) | | | 4(Sat)=2(Sun) | | | Total Hours | | | | | |
|-----------|-------|------|--------------------|------|--|---------|-----------------------|----------------|---------|------|---------------|------|-------|---------------|------|-------|---------------|-------|-------|-------------|-------|-------|------|---------|---------|
| | | | Start | End | 1.2s | 1.6 | | TTL | 1.2s | 1.6 | TTL | 1.2s | 1.6 | TTL | 1.2s | 1.6 | TTL | 1.2s | 1.6 | | | | | | |
| Cutting | 1 | M xx | 09.0 | 0.0 | 09.0 | 0.0 | 0.0 | 199.5 | 8.0 | 0.0 | 0.0 | 48.0 | 0.0 | 0.0 | 0.0 | 48.0 | 0.0 | 0.0 | 0.0 | 199.5 | | | | | |
| | 2 | B xx | 09.0 | 0.0 | 09.0 | 20.0 | 31.0 | 180.0 | 8.0 | 4.0 | 4.0 | 48.0 | 4.0 | 11.0 | 15.0 | 4.0 | 8.0 | 12.0 | 16.0 | 180.0 | | | | | |
| | Total | | 09.0 | 0.0 | 09.0 | 20.0 | 31.0 | 359.5 | 16.0 | 4.0 | 4.0 | 96.0 | 4.0 | 15.0 | 19.0 | 4.0 | 8.0 | 12.0 | 16.0 | 379.5 | | | | | |
| Sewing | 1 | B xx | 09.0 | 9.0 | 11/13 16.00 early leave 11/26 10.00 early leave | 200.0 | 12.0 | 16.0 | 167.0 | 0.0 | 0.0 | 0.0 | 48.0 | 4.0 | 1.0 | 49.0 | 4.0 | 8.0 | 34.0 | 4.0 | 10.0 | 57.0 | 0.0 | 0.0 | 164.0 |
| | 2 | B xx | 09.0 | 0.0 | | 209.0 | 16.0 | 20.0 | 180.0 | 0.0 | 0.0 | 0.0 | 48.0 | 4.0 | 1.0 | 52.0 | 4.0 | 8.0 | 36.0 | 4.0 | 11.0 | 44.0 | 4.0 | 0.0 | 188.0 |
| | 3 | B xx | 09.0 | 1.6 | 11/4/2009 10.00 | 207.6 | 20.0 | 26.6 | 180.0 | 8.0 | 4.0 | 4.0 | 48.0 | 4.0 | 1.6 | 54.0 | 4.0 | 10.0 | 38.0 | 4.0 | 11.0 | 44.0 | 4.0 | 0.0 | 206.6 |
| | 4 | B xx | 09.0 | 0.0 | | 209.0 | 16.0 | 20.0 | 180.0 | 0.0 | 0.0 | 0.0 | 48.0 | 4.0 | 1.0 | 52.0 | 4.0 | 10.0 | 36.0 | 4.0 | 11.0 | 44.0 | 4.0 | 0.0 | 188.0 |
| | 5 | B xx | 09.0 | 0.0 | | 209.0 | 20.0 | 26.0 | 180.0 | 8.0 | 4.0 | 4.0 | 48.0 | 4.0 | 1.0 | 52.0 | 4.0 | 8.0 | 34.0 | 4.0 | 10.0 | 44.0 | 4.0 | 0.0 | 200.0 |
| | 6 | B xx | 09.0 | 16.0 | 11/10 absent 11/18(Sun) | 193.0 | 18.0 | 20.0 | 160.0 | 8.0 | 4.0 | 4.0 | 47.0 | 4.0 | 0.0 | 49.0 | 4.0 | 8.0 | 34.0 | 4.0 | 11.0 | 44.0 | 4.0 | 0.0 | 199.0 |
| | 7 | B xx | 09.0 | 0.0 | | 209.0 | 20.0 | 27.0 | 180.0 | 8.0 | 4.0 | 4.0 | 47.0 | 4.0 | 0.0 | 52.0 | 4.0 | 8.0 | 34.0 | 4.0 | 10.0 | 44.0 | 4.0 | 0.0 | 207.0 |
| | 8 | B xx | 09.0 | 0.0 | | 209.0 | 20.0 | 26.0 | 180.0 | 8.0 | 4.0 | 4.0 | 48.0 | 4.0 | 1.0 | 52.0 | 4.0 | 8.0 | 34.0 | 4.0 | 10.0 | 44.0 | 4.0 | 0.0 | 206.0 |
| | 9 | B xx | 09.0 | 0.0 | | 209.0 | 20.0 | 27.0 | 180.0 | 8.0 | 4.0 | 4.0 | 47.0 | 4.0 | 0.0 | 54.0 | 4.0 | 10.0 | 34.0 | 4.0 | 10.0 | 44.0 | 4.0 | 0.0 | 207.0 |
| | 10 | B xx | 09.0 | 0.0 | | 209.0 | 16.0 | 22.0 | 180.0 | 0.0 | 0.0 | 0.0 | 47.0 | 4.0 | 0.0 | 52.0 | 4.0 | 8.0 | 36.0 | 4.0 | 11.0 | 44.0 | 4.0 | 0.0 | 188.0 |
| | 11 | B xx | 09.0 | 0.0 | | 209.0 | 20.0 | 23.0 | 180.0 | 8.0 | 4.0 | 4.0 | 48.0 | 4.0 | 1.0 | 52.0 | 4.0 | 8.0 | 34.0 | 4.0 | 10.0 | 44.0 | 4.0 | 0.0 | 200.0 |
| | 12 | B xx | 09.0 | 0.0 | | 209.0 | 16.0 | 23.0 | 180.0 | 0.0 | 0.0 | 0.0 | 47.0 | 4.0 | 0.0 | 54.0 | 4.0 | 10.0 | 34.0 | 4.0 | 10.0 | 44.0 | 4.0 | 0.0 | 188.0 |
| | 13 | B xx | 09.0 | 0.0 | | 209.0 | 18.0 | 22.0 | 180.0 | 0.0 | 0.0 | 0.0 | 47.0 | 4.0 | 0.0 | 52.0 | 4.0 | 8.0 | 36.0 | 4.0 | 11.0 | 44.0 | 4.0 | 0.0 | 188.0 |
| Total | | | 09.0 | 26.6 | | 2,862.6 | 231.0 | 296.6 | 2,277.0 | 14.0 | 26.0 | 26.0 | 467.0 | 52.0 | 25.0 | 472.0 | 51.0 | 101.0 | 294.0 | 52.0 | 188.0 | 44.0 | 0.0 | 2,054.0 | |
| Finishing | 1 | M xx | 09.0 | 1.0 | 11/26 9.18 - 11/27 9.40 | 208.0 | 16.0 | 21.0 | 180.0 | 0.0 | 0.0 | 0.0 | 44.0 | 4.0 | 0.0 | 48.0 | 4.0 | 8.0 | 35.0 | 4.0 | 9.0 | 47.0 | 4.0 | 0.0 | 197.0 |
| | 2 | M xx | 09.0 | 1.0 | 11/26/2009 9.18 | 208.0 | 16.0 | 24.0 | 180.0 | 0.0 | 0.0 | 0.0 | 48.0 | 4.0 | 1.0 | 52.0 | 4.0 | 8.0 | 34.0 | 4.0 | 10.0 | 44.0 | 4.0 | 0.0 | 200.0 |
| | 3 | B xx | 09.0 | 0.0 | | 209.0 | 16.0 | 26.0 | 180.0 | 0.0 | 0.0 | 0.0 | 48.0 | 4.0 | 1.0 | 52.0 | 4.0 | 8.0 | 34.0 | 4.0 | 10.0 | 44.0 | 4.0 | 0.0 | 200.0 |
| | 4 | B xx | 09.0 | 0.0 | | 209.0 | 16.0 | 26.0 | 180.0 | 0.0 | 0.0 | 0.0 | 48.0 | 4.0 | 1.0 | 52.0 | 4.0 | 8.0 | 34.0 | 4.0 | 10.0 | 44.0 | 4.0 | 0.0 | 200.0 |
| Total | | | 09.0 | 2.0 | | 834.0 | 64.0 | 96.0 | 640.0 | 0.0 | 0.0 | 0.0 | 194.0 | 16.0 | 1.0 | 204.0 | 16.0 | 32.0 | 134.0 | 16.0 | 28.0 | 88.0 | 16.0 | 0.0 | 700.0 |
| Total | | | 09.0 | 28.6 | | 3,696.6 | 295.0 | 392.6 | 3,076.0 | 14.0 | 32.0 | 32.0 | 661.0 | 72.0 | 26.0 | 676.0 | 71.0 | 133.0 | 428.0 | 72.0 | 187.0 | 132.0 | 4.0 | 0.0 | 2,754.0 |

Figure 17 - Attendance Record in Korean

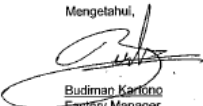
PT. TAE YUNG INDONESIA
TANGERANG - FACTORY

RENCANA KERJA LEMBUR MINGGUAN
(WEEKLY OVERTIME PLAN)

| TGL/BLN | 14-Jan-08 | 15-Jan-08 | 16-Jan-08 | 17-Jan-08 | 18-Jan-08 | 19-Jan-08 | JUMLAH |
|------------------|-----------|-----------|-----------|-----------|-----------|-----------|--------|
| HARI | SENIN | SELASA | RABU | KAMIS | JUMAT | SABTU | |
| JAM KERJA NORMAL | 8 | 8 | 8 | 8 | 8 | 0 | 40 |
| JAM KERJA LEMBUR | 2 | 2 | 2 | 2 | 2 | 0 | 10 |
| TOTAL | 10 | 10 | 10 | 10 | 10 | 0 | 50 |

BILA ADA PERUBAHAN JAM KERJA AKAN DIBERITAHUKAN SEGERA

Tangerang, 14 Januari 2008

Mengetahui,

Budiman Kartono
Factory Manager



Harianto
HRD

Figure 18 - Announcement on overtime schedule posted for workers to read in Indonesian

OVERTIME WORK REQUEST FOR APPROVAL

Tanggal : 03 - 07 - 2008
 To : Direktur Utama
 From : Factory Manager GC 2


REKAPITULASI JUMLAH KARYAWAN YANG KERJA DALAM 1 MINGGU LEBIH DARI 50 JAM KERJA TERMASUK PENGAWAS.

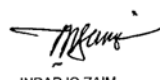
BAGIAN : SEWING, MEKANIK, QC, PACKING.

| HARI | TANGGAL | 12JAM / 21:00 JUMLAH ORANG | 9 JAM / 17:30 JUMLAH ORANG | 7JAM / 15:30 JUMLAH ORANG |
|--------|----------|-------------------------------|-------------------------------|------------------------------|
| SENIN | 07/07/08 | 650 | - | - |
| SELASA | 08/07/08 | - | 650 | - |
| RABU | 09/07/08 | 650 | - | - |
| KAMIS | 10/07/08 | - | 650 | - |
| JUM'AT | 11/07/08 | 650 | - | - |
| SABTU | 12/07/08 | - | - | 650 |


TOTAL : 61 JAM / 650 ORANG. ✓

Harap mengacu pada permintaan lembur dan lampirkan kesepakatan kerja bersama karyawan.



MISS ZHANG
Factory Manager


INDARJO ZAIM
Personalia

Diajukan,


SUJOKO
Ketua SPSI

Diketahui,


SUGIARTI
Ketua FSPTSK

Disetujui,

Mr. JACK CHEN
Direktur Utama

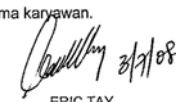

ERIC TAY
Direktur Produksi
MANAGER

Figure 19 – Overtime work request signed by unions in Indonesian

4.7 Freedom of Association and Collective Bargaining

The Workplace Standards state:

Business partners must recognise and respect the right of employees to join and organise associations of their own choosing and to bargain collectively. Business partners must develop and fully implement mechanisms for resolving industrial disputes, including employee grievances, and ensure effective communication with employees and their representatives.

4.7.1 Common Terms

1. To organise: This refers to the process of forming a trade union or workers association.
2. Collective Bargaining: The process by which union officers or worker representatives negotiate with management, on behalf of the entire workforce. A formally negotiated collective bargaining agreement ("CBA") often replaces, or makes unnecessary, individual employment agreements between the employer and the employee. The terms of the CBA become the accepted workplace terms and conditions.

4.7.2 Relevant Legal Documents

United Nations

- § *Universal Declaration of Human Rights 1948*
- § *International Covenant on Economic Social and Cultural Rights 1966*
- § *International Covenant on Civil and Political Rights 1966*

ILO

- § *Freedom of Association and Protection of the Right to Organise Convention 1948*
- § *Right to Organise and Collective Bargaining Convention 1949*
- § *Voluntary Conciliation and Arbitration Recommendation 1951*
- § *Collective Agreements Recommendation (No 91) 1951*
- § *The Collective Bargaining Convention 1981*
- § *Collective Bargaining: ILO Standards and the Principles of the Supervisory Bodies 2000*

4.7.3 Identifying Common Examples of Non-Compliance

Unions and Associations

- x Factory management restricts workers from joining unions, associations, committees or other forms of worker groups.
- x Management fails to recognise, or obstructs, attempts by employees to form alternative unions in favour of the majority union, or gives preferential treatment to the majority union.
- x Management refuses to facilitate or join in the discussions or meetings between different worker organisations and unions which exist in the factory.
- x Workers who participate in legal union activities are punished or discriminated against. For example, they are required to clean toilets, denied access to the canteen or clinic, transferred randomly between departments, or dismissed with no valid cause.
- x Factory management prevents workers from participating in legal strikes.
- x Factory management dismisses workers who lead strikes.
- x Management fails to consult with, or report to, the unions in the factory matters which management is required to disclose by law. For example, factory closure, mass layoffs, restructuring of the business.

Collective Bargaining

- X Workers are not allowed to challenge management regarding work terms and conditions.
- X Management refuses to bargain collectively with workers, either formally under the terms of the local laws, or informally.
- X Factory management does not comply with the terms of the CBA.
- X Management insists on the use of individual employment contracts or agreements over the CBA.
- X Management fails to have the CBA endorsed by the labour department or other authorities as required by law.

Effective Communication

- X There are no proper formal or informal communication channels between factory management and workers.
- X Factory management refuses to meet or communicate regularly with worker representatives.
- X Factories implement suggestion boxes as a way to allow workers to make suggestions to factory management or file grievances about factory conditions in a confidential manner. In many factories, suggestions boxes may be the only confidential communication channel that workers can use to access management. However, experience has shown that in many cases suggestion boxes are not used properly, i.e. they are not placed in the common areas, dormitories or bathrooms, or they are placed around the factory, but provide no instructions or information about how suggestions will be answered. Even when used, many of the workers' suggestions and/or grievances go unanswered or are improperly resolved.
- X Methods of communication are not properly used.
- X Supervisors are not adequately trained in the correct management approach to ensure workers' rights and freedom of association within the factory.
- X There is no formal grievance or appeal system which would allow workers to bypass their supervisors when necessary and speak directly with HR or senior management.
- X The factory refuses to invest any time or energy in those processes which help improve communication between management and workers, such as on the job training, group meetings, worker development programmes, job performance assessments and social activities.
- X Communications by management are inappropriate. For example, supervisors rely on written instructions to workers without verbal explanations, especially where literacy levels are low or where migrant workers are employed in the factory.

4.7.4 Systems & Documentation

It is not possible for a factory to comply with the standard on Freedom of Association and Collective Bargaining unless the factory uses a total quality management approach to its communication with employees. This approach should extend to both formal and informal systems of negotiation, communication and relations, at and between every level of management and workers.

It will be necessary for the factory to examine all the methods by which management communicates with employees regarding workplace terms and conditions, production issues, relations between workers and supervisors, development of the factory business, how to improve productivity and efficiency and reduce waste, and how to ensure long-term stability. Where management fails to take positive action and to implement effective systems in this area the results are well documented: work slow-downs, strikes, poor job performance, high turnover and loss of business. Management needs to capture and make use of the constructive ideas and suggestions of its employees.

4.7.5 Suggested Solutions

Unions and Associations

- ✓ Adopt a proactive and positive approach to union activities in the factory.
- ✓ Involve union representatives in decisions concerning production and training of the workforce. Management will find it easier to implement its decisions and programmes and will benefit ultimately from the constructive comments of the union.
- ✓ Meet informally with union representatives to seek the union's input on problem solving. Listen to, and act on, the items which they raise as workers' concerns.
- ✓ Provide an office area to the unions in the factory where they may leave their information and materials, and conduct meetings in a well-managed environment.
- ✓ Be prepared to deal with more than one union or workers association in the factory. Management must deal with all unions and associations fairly and equally.
- ✓ Legal strikes and demonstrations should be dealt with as labour disputes and should not involve the police or armed forces. Such disputes should be resolved by management, unions and labour authorities. *(See also additional guidance on Management of Strikes, Section 5.3.2.)*
- ✓ Treat union officers as leaders and with respect. They must be allowed to operate lawfully and free from obstruction and discrimination.

Collective Bargaining

- ✓ Any formal discussions, such as CBA negotiations, should be recorded formally and endorsed by the labour bureau as required by law.
- ✓ Any CBA reached by management and union representatives should be processed in a timely manner in order to make it effective at law.
- ✓ Honour the terms of any CBA which has been negotiated and endorsed by the local labour authority.
- ✓ CBAs replace the terms of individual labour contracts, except where the terms of the individual contract are more favourable.

Effective Communication

- ✓ Never refuse to meet with worker representatives.
- ✓ Establish worker committees which can deal with specific issues, such as health and safety, supervisor-worker relations, setting of production targets, social activities. *(See also additional guidance on Management-Worker Committees, Section 5.3.1.)*
- ✓ Any meetings, including informal discussions, which are held between management and union or worker representatives should be recorded and minutes should be provided to the participants.
- ✓ Establish suitable training programmes for supervisors. What tools and information do supervisors need to communicate with workers properly? Identify their needs, such as local language lessons, instruction on the local laws regarding freedom of association and collective bargaining, operation of the factory grievance system.
- ✓ Invest in those programmes which improve communication between management and workers, such as on-the-job training, worker development programmes, job performance assessments, and social activities.
- ✓ Identify and develop those tools for direct contact with the workforce, such as newsletters or magazines to which workers contribute, monthly production meetings and focus groups, lunchtime discussions between management and workers.

SPECIAL NOTE ON SUGGESTION BOXES

All factories have a natural hierarchy consisting of owners, top managers, middle managers, supervisors, line chiefs and workers. The communication usually goes through such hierarchy. Unfortunately, it does not always work as efficiently as it could. It is often the case that workers' suggestions, needs or complaints either never reach top management, or reach them after being filtered through many layers of middle management and different departments. The recommendations for good management of suggestion boxes is set out below.

- ✓ Factory management should draft a policy and procedures explaining the purpose and use of suggestion boxes. The policy should clearly indicate that workers will not be penalised for using the suggestion boxes. The procedures should indicate the person responsible for opening suggestion boxes and reviewing workers' comments, and a timeline for a response from management. A copy of the suggestion box procedures and non-retaliation policy should be posted next to each suggestion box.
- ✓ All managers, supervisors and workers should be trained in the suggestion box procedures.
- ✓ Suggestion boxes should be placed in a mixture of private and public areas. Some workers may feel uncomfortable using the suggestion boxes in front of other people, while some workers may not. Some public areas may include the canteen, bulletin board areas, recreation rooms, etc. Private areas include restrooms and dormitories.
- ✓ Under no circumstances should factory management have a security guard stand near the suggestion boxes. This may intimidate workers, and prevent them from using the suggestion box.
- ✓ All suggestion boxes should be equipped with paper and pencil for workers to write down suggestions or grievances. The suggestion forms should have a space to write the date, the worker's name (make it clear that this is optional), the suggestion or grievance, and contact information if the worker wants to be contacted directly in regard to the comment. It should also be clearly stated that workers do not have to use the suggestion form in order to report a comment, grievance or suggestion.
- ✓ Suggestion boxes should be kept locked at all times. Only designated person(s) should be able to open the suggestion boxes and review the comments.
- ✓ For transparency, the opening of suggestion boxes can be done jointly by a worker representative and a management representative.
- ✓ Confidentiality must be kept in relation to all comments, especially where a worker is using the suggestion box to file a grievance or notify management about harassment. Under no circumstances should the managers/supervisors responsible for opening the suggestion boxes and reviewing the workers' comment discuss workers' suggestions/grievances with other people who are not part of the investigation of a specific grievance, or part of the management team responsible for reviewing workers' comments.
- ✓ Factory management should not always respond publicly if workers have indicated that they would like to remain anonymous, or if the nature of the comment is sensitive, such as a grievance against a manager/supervisor/colleague, or an allegation of sexual harassment. However, in cases where management wants to respond publicly, the information posted should focus on the content of the problem and *not* include the name of any worker who filed the complaint or the name of the person the worker complained about.
- ✓ All suggestions/comments should be reviewed by a senior manager with decision making capabilities. All serious grievances/comments should be properly investigated by persons appointed by the factory's senior management.

- ✓ Factory management may respond to any suggestions/grievances filed via the suggestion box regardless of its level of importance. Responses to any comments or suggestions may be made on factory notice boards once properly investigated.
- ✓ If no worker comments have been received, then the management can post a response stating, "There were no suggestions during this period." This will reassure workers that the comments are being reviewed by management. It can also alert management to potential problems and prompt an investigation into why the suggestion boxes are not being used.
- ✓ Proper documentation of any investigation, including records of worker interviews, should be kept by factory management in a confidential manner.
- ✓ The factory should maintain proper tracking of all comments received through suggestion boxes in order to ensure they are all reviewed and answered. The suggestion box system must be implemented continuously and meet all of its deadlines in order to not lose credibility.

Documentation and Management Systems

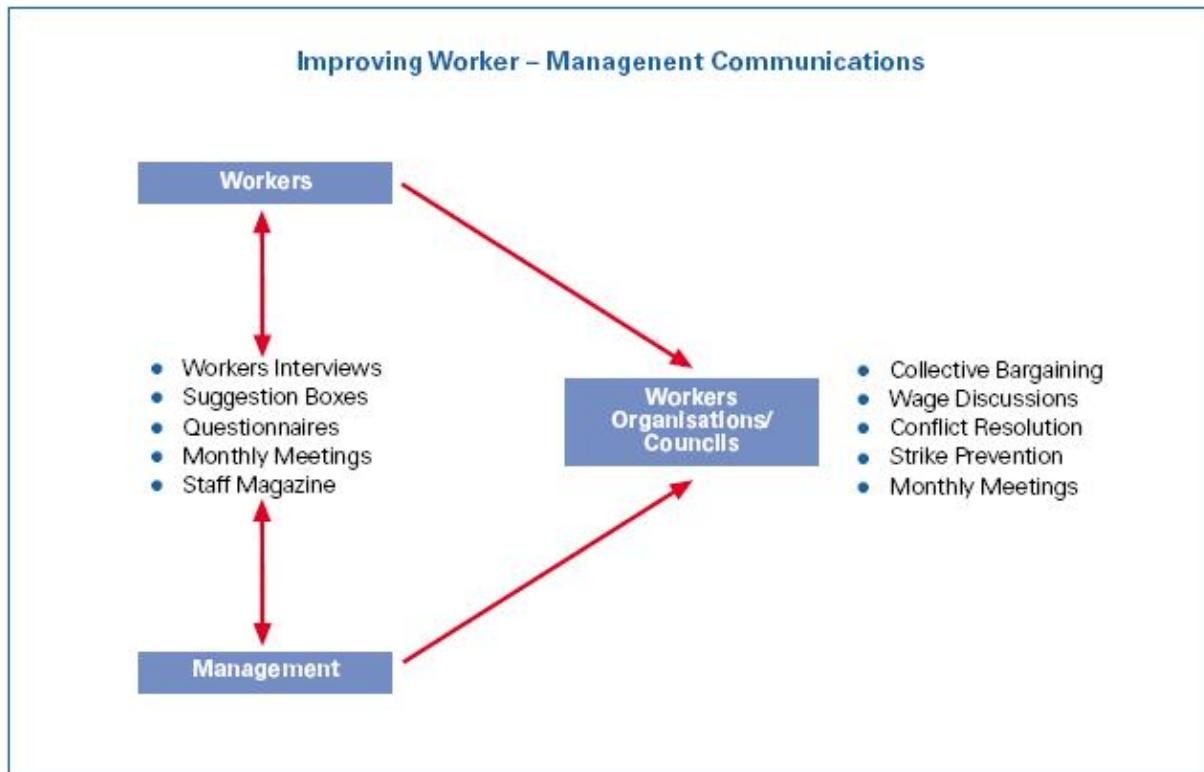
- ✓ If union dues are deducted from monthly wages, there should be a letter of authority on file, signed by the employee, stating that the employee has voluntarily joined the union and that the factory is authorised to deduct union fees from the monthly wages.
- ✓ Track union membership. Unions can only formally represent those workers who are voluntary members.
- ✓ Where a CBA replaces the individual labour contract of employees, ensure that all workers receive a copy of the CBA.
- ✓ Keep copies of all written requests and demands that are received from the union or worker representatives, together with the factory management response to the requests or demands.
- ✓ Keep centrally filed copies of all minutes of meetings showing informal and formal discussions with the union or worker representatives and management.
- ✓ Establish an independent means to notify the workforce of communications with the union or other worker associations, and any actions which management will take resulting from those discussions. For example, use a notice board to update employees on management-union discussions.

4.7.6 Documentation, Procedures and Systems – Evidence of Good Management

Factory Document Checklist

- ✓ Collective Bargaining Agreements (CBAs)
- ✓ Employment Contracts
- ✓ Company Newsletters
- ✓ Suggestions box procedures
- ✓ Management Worker Communication system (policy, procedures and records)
- ✓ Notices and Bulletin Boards
- ✓ Minutes of meetings between management and union/worker representatives
- ✓ Grievance Records
- ✓ Non-Retaliation and Non-Harassment policies
- ✓ Authorisation letter for deducting union dues
- ✓ Training records related to Freedom of Association Standards
- ✓ Local laws/regulations related to Freedom of Association Standards.

4.7.7 Management Flowchart



4.7.8 Case Studies for Unacceptable, Acceptable and Best Practices in the Freedom of Association & Collective Bargaining Standard

A. Opportunity to Meet and Organise

One production line in the factory has not achieved the production goal in several weeks. Verbal warnings were given to all of the workers on that line. Additionally, several workers were also given written warnings because the production manager heard that they spend lunch breaks talking about forming a union. The line supervisor targets one worker as the 'ringleader' and he is fired.

What did the Factory Do Wrong?

Management targeted the operators who were discussing union activity and issued them a warning which was more severe than the warning issued to those workers who were not reported discussing union activities. Further, the worker seen as the 'organiser' was improperly dismissed. The action taken by management is poorly disguised discrimination against the workers who were discussing forming a union in their lunch time. Indirectly, management is discouraging and preventing workers from forming or joining an association of their own choosing. This is a breach of the Standard on Freedom of Association and Collective Bargaining.

What Should the Factory Do?

The factory owner investigates why production goals have not been met. He finds out that some employees have been talking about organising a trade union. He takes a note of this, and he is not surprised several days later when he is presented with a workers' organising petition from several of the employees. He speaks with the representatives and agrees that management will not interfere with the union's organising meeting, and will not restrict workers from attending.

Management advises the factory's security guards that there is going to be a meeting and that the factory's employees and the union representatives must not be restricted from attending.

The factory manager makes sure that the supervisors are trained in, and understand, the local labour code regulations regarding freedom of association and collective bargaining. The training includes materials explaining that supervisors may not take any disciplinary action against any worker for participating in legal union activities. This includes any indirect discrimination against trade union leaders or members, such as rotating them between different departments or randomly changing their job assignments as 'punishment' for their union activity. Disciplinary or discriminatory actions against a worker on the basis of association membership are prohibited.

The workers meet with the trade union and exercise their right of association.

Best Practice

The factory owner realises that there is no management system for developing effective communication channels with employees. When he is presented with an organising petition by several of his employees, he speaks with the union representatives and makes a meeting room at the factory available for the union representatives and workers. At the same time, he seeks assistance from a local industrial relations consultant and contacts the local office of the ILO for assistance and advice on how to manage the relationship with the union going forward.

The union representatives agree that factory management should also hold meetings with the factory employees. This is an opportunity for management to listen to the workers and to answer questions. This will contribute to effective communication practices, and allows the workers to make informed decisions about how to raise problems and suggestions with management.

Regular meetings are held between management and union representatives, and it is expanded to include worker representatives. The agenda for each meeting is expanded to include projects that improve the running of the factory. The results are seen in increased efficiency, lower workforce turnover, and higher product quality. The management system now includes guidelines for consensus building.

B. Communication Channels

Management at the MNO Company has installed suggestion boxes in the factory. There are two boxes; one is placed on the wall outside the production manager's office, and the other one is next to the security guard's office at the factory's front gate. Management complains that the boxes are useless and that no-one uses them. Management states that workers' education levels are poor and they are not at all interested in discussing issues relating to the workplace conditions and production with management.

What did the Factory Do Wrong?

The suggestion boxes are in inappropriate locations because they are in full view of factory management. These locations may intimidate workers. The result is that workers may not use the boxes for effective communications with management. The factory has made no other efforts to develop effective communication channels with workers. The factory is not in compliance with the standard relating to management-worker relations.

What Should the Factory Do?

Management at the MNO Company installs suggestion boxes in the factory. The factory manager and the human resource manager walk around the factory to determine the best locations where workers will have good access to the boxes to insert their comments in the boxes with some privacy. They decide that this will encourage employees to offer suggestions without feeling that someone is watching them put something into the suggestion box.

The boxes are placed in the factory canteen, dormitories, and bathrooms and in the clinic. They have clear instructions on them regarding collection times, how suggestions will be handled, who has the key to the boxes, when responses will be issued, and the fact that both anonymous and signed comments will be accepted.

Best Practice

Management also decides to place a small supply of paper and pens next to the suggestion boxes, for everyone in the factory to use. The factory owner suggests that he will write a number of questions that he would like employees to answer. The questions will be typed on a paper inserted in the pay check envelopes. When a worker completes the questionnaire, they may return the paper to a box outside the human resources department. The factory owner reads the answers together with the human resource manager, and reviews the responses of the employees.

The factory manager, the human resource manager, and the factory owner then discuss the most effective ways to provide their answers on the issues in the questionnaire to the workers. They adopt this policy: "A letter received is a letter that needs to be answered". The suggestion boxes will be checked regularly, the contents will be read and reviewed, and the answers, together with other relevant information, will be posted on a board next to the suggestion boxes.

As added incentive to employees, the factory runs a quarterly competition. The best suggestions relating to production issues and management issues receive a prize and are published in the factory magazine and on the notice boards around the factory.

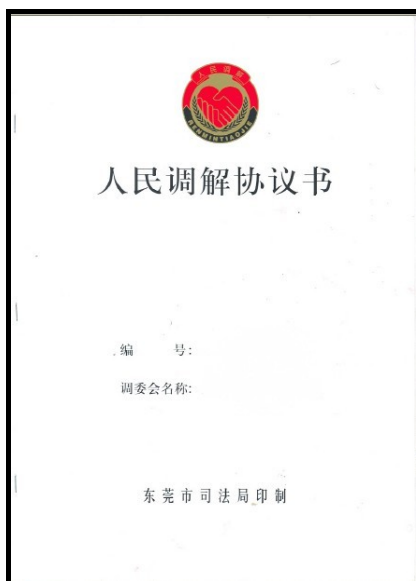


Figure 20 – Dispute mediation cover letter in Chinese



Figure 21 – Worker Suggestion Box in Indonesian



Figure 22 – Employee Magazine in Chinese

4.8 Disciplinary Practices

The Workplace Standards state:

Employees must be treated with respect and dignity. No employee may be subjected to any physical, sexual, psychological or verbal harassment or abuse, or to fines or penalties as a disciplinary measure. Business partners must publicise and enforce a non-retaliation policy that permits factory employees to express their concerns about workplace conditions directly to factory management or to us without fear of retribution or losing their jobs.

4.8.1 Common Terms

1. Harassment: Uninvited and unwelcome conduct directed at an individual. This may be a single or a repeated act.
2. Abuse: Improper or excessive use or treatment.
3. Retaliation: Any negative action or credible threat against an employee who in good faith reports problems to management, participates in worker interviews during compliance audits, or helps in the investigation of a worker's grievance.
4. Non-Retaliation Policy: Forbids any punitive measures against such workers, and reassures employees that they may report any problems or grievances to management or compliance monitors without being subjected to any negative actions by or on behalf of management, supervisors or other workers.

4.8.2 Relevant Legal Documents

United Nations

§ Universal Declaration of Human Rights 1948

§ International Covenant on Civil and Political Rights 1966

ILO

§ *Termination of Employment Convention 1982*

§ *Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment 1984*

4.8.3 Identifying Common Examples of Non-Compliance

Physical Abuse

- x Unauthorised physical forms of discipline or punishment are in use, for example beatings, standing at the front of the production line, running around the factory building and unpleasant cleaning tasks.

Sexual Abuse/Harassment

- x Employees are subject to sexual harassment, such as improper physical contact/being touched inappropriately, commenting on the employee's appearance in a suggestive or inappropriate manner, advances such as continually asking the employee out or for sexual favours, creating a hostile or uncomfortable environment, for example by displaying pornographic material, or any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.
- x Security guards perform body searches on workers in the production areas or as workers leave the factory grounds. *(See also additional guidance on Body Searches, Section 5.2.1.)*

Psychological Abuse

- x Workers are singled out for poor performance and made to write letters of self-criticism, or wear or display objects which identify them as 'poor workers', such as a black cap, black t-shirt or black flag on their machine.
- x Records of disciplinary actions stating the name of the worker, the offence and the fine or punishment are posted around the factory on public notice boards for 'education purposes'.
- x The factory forces workers to sign warning letters or other records of discipline, even when they do not agree with the warning.

Verbal Abuse

- x The factory supervisors practice verbal harassment, such as shouting at workers, using rude language or calling workers by insulting names.
- x Supervisors rely on arbitrary threats, such as dismissal, to manage workers and control their behaviour.

Combinations of the Above Forms of Abuse

- x Workers are verbally abused, physically punished or fined for breaches of factory rules or practices, such as late attendance, disagreeing with a supervisor, making mistakes on product, or talking on the production line during working hours.
- x The factory limits the number of toilet breaks or opportunities to collect drinking water, or places other unreasonable restrictions on the use of toilets or access to drinking water.
- x Basic services or benefits are withdrawn as a form of punishment. For example, a worker is refused meals at the canteen, treatment at the clinic, proper payment of allowances, use of factory uniforms, or leave with pay.
- x The factory sets unreasonable curfew hours in the dormitory or restricts workers' movement around the dormitories.
- x Security guards make unreasonable requests for information about why and with whom workers are leaving the dormitory areas and what time they will return.
- x Management or third parties threaten workers or their family members because of the worker's involvement in a trade union, a workers association, or for being involved in strikes and slow-downs.

- x Management takes unreasonable or disproportionate disciplinary action against workers for breaches of factory rules or regulations, i.e. the disciplinary action does not match the offence. For example, management reports workers to the police for minor theft of factory property, such as a pair of outsoles or a piece of material, instead of simply dismissing the worker.

Non-Retaliation

- x Many factories create multiple communication channels to allow workers to make suggestions or report problems. However, many of these channels are not used by workers who fear that they will 'get into trouble'. This fear is usually based on their experience of observing workmates who have spoken out and been punished, or because the general climate in the factory discourages worker participation and workers are expected to remain 'silent'.
- x During compliance audits, workers often are uncomfortable participating in interviews fearing that management or workmates will take negative actions against them for speaking out about factory conditions. In some cases, workers are 'coached' not to discuss workplace conditions, but instead provide standard responses to auditor questions. Any worker who does not provide the standard answers is heavily penalised, or may even lose his or her job.

Documentation and Management Systems

- x Employers fail to publish the factory rules and notify employees about the disciplinary system in the factory.
- x Employers fail to provide supervisors with written instructions and guidelines concerning the application of the disciplinary system.
- x Supervisors make up random or unreasonable rules and apply them arbitrarily, i.e. on a case-by-case basis.
- x Supervisors take disciplinary action against workers who do not achieve the daily production quota.
- x Employers do not train or assess supervisors in relation to application of factory disciplinary practices.
- x The factory fines workers for violations of the company's rules or workplace regulations, and the fines are paid in cash or deducted from wages.
- x There is no process whereby workers can challenge disciplinary actions taken against them.
- x There are no records of disciplinary action kept on workers' files in the personnel department.

4.8.4 Systems & Documentation

It is not possible for a factory to comply with the standard on Disciplinary Practices unless the factory uses a total quality management approach to its treatment and management of the workforce. This approach requires reasonable factory rules to be published and provided to all employees. It also means that the factory should have a progressive disciplinary system in place and an appeal or grievance procedure for workers. It will be necessary for factory management to arrange regular training for all supervisors and department heads on the factory rules and progressive system of discipline.

4.8.5 Suggested Solutions

Sexual Harassment

- ✓ Policy: The factory must implement a formal, written non-harassment policy. The policy should define unlawful sexual harassment and disciplinary actions related to such misconduct. The policy should be communicated to all employees, via the Employee Handbook, or bulletin board, or other channels. The content of the policy may vary based on relevant local laws.

- ✓ **Grievance Procedure:** A grievance mechanism must be established so that employees who believe they have been sexually harassed have a comfortable, efficient and effective process for reporting the alleged harassment. The policy must include the steps for receiving and dealing with the claim. This includes timely treatment of the complaint. It is crucial that where any claim involves a supervisor, the employee must be able to raise his or her concerns to higher-level management in strict confidentiality.
- ✓ **Enforcement:** It is the duty of the employer or other responsible persons in the workplace to discourage and prevent sexual harassment and to provide the procedures for resolving, settling or prosecuting any acts of sexual harassment by taking all steps required, with regard to relevant local regulations.
- ✓ **Investigation:** All allegations of sexual harassment must be investigated properly. This means that any witness to the events in question should be interviewed. Simply asking the alleged offender for his or her version without taking further steps is not sufficient.
- ✓ **Remedial Action:** If the investigation reveals the allegations to be true, appropriate corrective action must be taken. The corrective action should include appropriate disciplining and/or prosecution of the offender. The employer must also make efforts to correct the hostile or offensive work environment. In cases where no specific corrective action is necessary, it may still be appropriate to recirculate the relative policy and procedure.
- ✓ **Confidentiality:** Every single case must be handled, based on the facts, and with sensitivity. Special attention needs to be paid to the confidentiality not only of the victim, but also the alleged offender.
- ✓ **Non-Retaliation Policy:** Any retaliation against an employee for seeking to enforce his or her rights, by filing a complaint with the employer, the police or an administrative agency (such as a non-discrimination tribunal) is improper and in many countries illegal. Typical acts of retaliation include: termination of employment, demotion, involuntary transfer, or any other job action that seeks to punish the employee.
- ✓ **Informed Workplace:** Management can greatly reduce the risk of any harassment in the workplace by proper implementation of the policy, ensuring that appropriate conditions exist in the workplace, dormitories, bathrooms and other facilities, and through incorporating the content of the policy into orientation and regular training for workers. Raising awareness of the problem, and dealing with any acts of harassment in a timely and appropriate manner will help to prevent reoccurrences of inappropriate behaviour.
- ✓ **Harassment outside the factory grounds:** Where sexual harassment occurs outside the factory grounds or involves a third party not employed by the factory (e.g. a worker is harassed by construction workers on the factory grounds or by canteen staff who are hired through a contractor, the factory should take all steps necessary and reasonable to assist the worker in terms of support and preventive action.
- ✓ **Authority Involvement:** The factory must consider whether the case of harassment is criminal and passed onto the relevant local authority, such as the local police for procedure. Cases of rape, for example, or other physical harm should be reported. The worker should be accompanied by a responsible and appropriate person from the management team who can ensure his or her protection and proper treatment, and provide support.

Non-Retaliation Policy

- ✓ The factory must allow workers to speak freely with authorised visitors to the factory. Do not discipline or punish workers for discussing factory conditions.
- ✓ The factory should ensure that there are open and confidential reporting channels for worker grievances, comments, and suggestions and that workers are encouraged to use these communication channels. All grievances, comments and suggestions made by workers should be answered by management, regardless of the seriousness of the comment within an appropriate time frame. Providing channels for two-way communication is the first step in showing management

- ✓ commitment to a non-retaliation policy.
- ✓ The factory must have a non-retaliation policy explicitly indicating that there will be no negative consequences for, discrimination against, or unfair treatment of, any worker who (1) reports a problem or makes a suggestion in good faith to factory management or (2) participates in worker interviews during compliance audits. Discriminatory or unfair treatment includes, but is not limited to loss of job, loss of opportunity for promotion, discrimination in job assignments, discrimination in job reassignment, and loss of wages or other benefits due to participation in interviews with auditors.
- ✓ The policy must be endorsed/signed by senior management and posted throughout the factory in prominent places, for example next to suggestion boxes and on notice boards. The policy should also be set out in the company employee handbook and the company rules and regulations.
- ✓ The policy should also be verbally communicated to all managers, supervisors, and workers.
- ✓ The policy should include procedures for disciplinary action to be taken against any worker, manager, or supervisor who is found to have retaliated against a fellow employee for reporting a grievance or for speaking to compliance monitors. All instances of retaliation should be properly corrected by factory management in order to protect the workers' ability to report problems.

Documentation and Management Systems

- ✓ Adopt reasonable factory rules which apply to all employees, including supervisors and other managers. Make sure the rules are published and provided to all employees.
- ✓ If the factory has dormitories, adopt reasonable rules about living, access and security arrangements in the dormitories. Curfews or other restrictions should be reasonable.
- ✓ Post the factory rules on notice boards and in public areas around the factory.
- ✓ Adopt a progressive disciplinary system in the factory: (1) verbal warning; (2) written warning; (3) transfer; (4) suspension; (5) dismissal. There may be various sub-levels within each of the five stages. Make sure that the system is clearly communicated to all employees. Apart from the five forms of discipline, no other disciplinary action or form of punishment should exist in the factory.
- ✓ Disciplinary practices must follow or exceed local law and must be fully documented.
- ✓ Ensure that there is a direct relationship between the factory rules, a breach of the rules, and the relative disciplinary action. For example, some conduct will be considered less serious and require a verbal warning only. Other conduct (e.g. physical abuse of, or violence towards, other employees) may require immediate dismissal without going through the earlier stages.
- ✓ Implement a management policy banning all forms of harassment and abuse of employees by other employees, supervisors or managers. Deal strictly with employees who breach the policy by following the progressive disciplinary system.
- ✓ Implement a management policy banning financial deductions or penalties as a form of discipline or punishment.
- ✓ Provide supervisors with written guidelines. They must not use their own arbitrary forms of discipline.
- ✓ Provide special and periodic (e.g. quarterly) training to supervisors on the progressive disciplinary system.
- ✓ Provide cultural sensitivity training for managers and supervisors.
- ✓ Establish the various levels of authority within the factory for exercising various levels of discipline. For example, a supervisor may give a verbal or written warning, but only a production manager may authorise a transfer, after consultation with the supervisor.
- ✓ Develop factory forms to document all instances of discipline, including verbal warnings. Ensure that these records are kept on individual worker files, as well as being filed centrally in HR or Personnel.
- ✓ For all levels of discipline, except a verbal warning, the signature or acknowledgement of the employee being disciplined should be recorded on the discipline form. However, employees must not be forced to sign the form, and if they refuse this should be recorded on the form also.

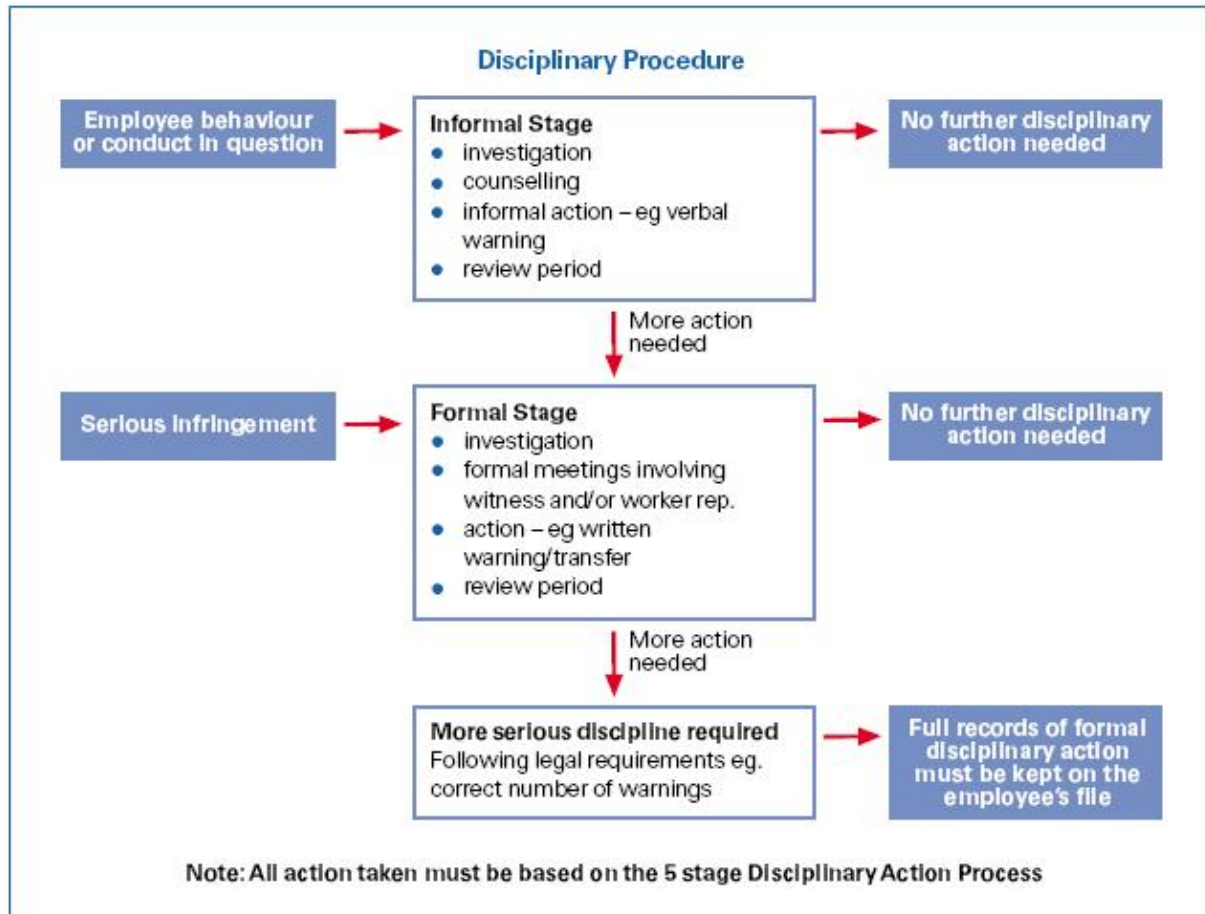
- ✓ Establish a system of appeal or grievance for employees. If workers disagree with the decision of their supervisor or the level of discipline being used, there should be direct access to HR or Personnel departments and management to discuss the issues.
- ✓ Establish a counselling or grievance service or centre for employees. The centre may perform a variety of useful functions. Specifically in relation to disciplinary practices, this should be the place where employees can report unauthorised forms of discipline, abuse and harassment. The centre staff should be suitably qualified to deal with complex or sensitive issues such as sexual harassment.
- ✓ Adopt a company policy: Police or other local authorities should not be involved in internal labour disputes or the disciplining of employees for minor and/or non-criminal acts or behaviour. *(See also additional guidance on Management of Strike, Section 5.3.2.)*
- ✓ Be creative when it comes to production issues. For example, instead of fining workers for not meeting production targets, investigate what the problem is: low skill level, broken or poorly maintained equipment, lack of training, bottle necks on the line, bad supervision, worker is not suitable for the position?

4.8.6 Documentation, Procedures and Systems – Evidence of Good Management

Factory Document Checklist

- ✓ Company Policies
- ✓ Factory Rules or Regulations
- ✓ Dormitory Rules
- ✓ Supervisor Disciplinary Guidelines and Manuals
- ✓ Organisational Charts (levels of authority necessary for taking disciplinary action)
- ✓ Warning Forms
- ✓ Commendation Forms
- ✓ Appeal and Dispute Resolution Documentation
- ✓ Termination Documentation
- ✓ Security management system (policy, procedures, records)
- ✓ Non-Retaliation and Non-Harassment policies
- ✓ Training records related to Disciplinary Practices Standards
- ✓ Local laws/regulations related to Disciplinary Practices Standards.

4.8.7 Management Flowchart



4.8.8 Case Studies for Unacceptable, Acceptable and Best Practices in the Disciplinary Practices Standard

A. Verbal & Physical Threats

A production worker in the factory has been working on the sewing line for four months. The worker's supervisor tries to explain a construction process to the worker who does not understand. The worker is frustrated and asks her neighbour if she understood what the supervisor said. The supervisor thinks the worker is ignoring him, and starts yelling the instructions louder, in the hope that a louder voice will clarify his message. The supervisor is new to the factory, recently arrived from another country and does not speak the worker's language. The worker still does not understand what the supervisor is saying and stands up. The supervisor is now angry and yells at the worker to sit down and start working or she will be fired. When the worker does not sit down, the supervisor grabs the worker and forces her back down into her chair.

What did the Factory Do Wrong?

The supervisor cannot communicate with the workers due to the lack of a common language. The poor communication increases tensions between the supervisor and the workers on his line, and results in verbal threats and physical contact. This is not in compliance with the Standard on Disciplinary Practices.

What Should the Factory Do?

The factory recruits production supervisors from other countries for their technical skills. The manager makes local language fluency part of the job description. The manager personally interviews the applicants to make sure they have the appropriate language skills to communicate with the workers.

The factory manager and the personnel director develop and implement a training programme that will be presented to all of the new supervisors. It includes an orientation to the cultural, social and ethnic norms of the country, local language classes that are tailored to the fluency level of each of the new supervisors, a detailed explanation of the factory's disciplinary policies, and the expectations for disciplinary practice by supervisors and managers.

For some positions, the factory manager must select overseas candidates based on their technical qualifications, even if they do not have the required local language skills. Therefore, the factory manager sends the new recruits to a language immersion course and limits their communications with workers until they have a working command of the local language.

Factory management would like to be able to clearly identify when issues like this arise, so management encourages the development of a worker-management committee. One of the first tasks for the committee is to develop strategies which encourage workers to communicate their concerns about any poor treatment to the management. The factory implements a non-retaliation policy for workers who report their concerns.

Best Practice

Factory management instructs the personnel department to develop an ongoing training programme for all supervisory and management personnel, including senior management. The programme is to be included in the management systems. It includes regular orientation in the factory's progressive disciplinary policy, practices which are considered acceptable forms of disciplinary enforcement, and practical leadership courses. There will also be an incentive programme for managers who use good management practices.

B. Harassment

After a recent inspection by the local fire department, the factory is informed that there is an overcrowding problem in the bathrooms. Even though there are a sufficient number of toilets according to HSE guidelines, there are certain times of the day when the bathrooms are overcrowded. Factory management decides to implement a permission system for bathroom visits.

A line supervisor decides to make the 'permission' system easier for himself, and tells his line workers that they will be limited to two bathroom visits per shift. The line is composed of 98% women.

One worker asks permission to use the bathroom and explains that she is suffering from menstrual cramping. The supervisor, noting that this is the operator's third request of the day demands proof, and the operator must remove her soiled underwear to show him. He then allows her to visit the bathroom.

What did the Factory Do Wrong?

By asking the worker to show proof of menstruation before granting access to the bathroom, the supervisor subjects her to an embarrassing and abusive situation. The supervisor's conduct constitutes physical, sexual and psychological harassment. Additionally, restricting access to the bathrooms breaches the basic rights of all the workers, male or female. At the end of the day, the supervisor's approach does not solve the original problem, i.e. overcrowded bathrooms.

What Should the Factory Do?

Management decides that a solution must be found, and, if necessary, additional bathrooms must be constructed.

Factory management instructs the personnel department to set up training sessions for the supervisors to explain workers' basic rights and use of the bathrooms. During the sessions, it must be made clear that no one may be refused permission to use the bathrooms. Instead, supervisors should use the permission process to be aware of how many people are in the bathrooms at that time, and to be aware of overcrowding as a safety issue.

The personnel department exempts pregnant women from the permission system, and directs supervisors to allow unlimited bathroom access to anyone who is feeling sick.

The factory manager spends two days meeting with employees in every production department, explaining the bathroom permission system. She asks the workers to be aware of safety considerations in overcrowding the bathrooms, and asks for their cooperation and help. A memo explaining the system is also posted on the employee bulletin boards, and the factory's safety committee is encouraged to meet and speak with the workers about efficient use of the bathroom facilities.

Best Practice

Additionally, the factory manager instructs his maintenance department to physically separate the rooms for toilet and hand washing facilities. By moving the sinks and hand washing equipment immediately outside the toilet rooms, there is a better flow of employees in the toilet and wash facilities during peak hours.

General Company Policy

- All employees must bring proof of Alien Registration Card and Social Security.
- Business hours are 7:30 am to 4:15 pm. Any overtime must be approved by a Supervisor.
- All employees must punch timecards twice (2) a day. Start of work and end of work.
- Lunch is 45 min. Morning and afternoon breaks are 10 min each. Hours are posted by the timecards.
- No visitors allowed in the factory.
- No children / minors allowed in the factory.
- All piece tickets must be received by Friday 4:30 pm for pay next Friday 4:30 pm.
- Payday is every week, Friday 4:30 pm. Management will call your name to pick-up pay check, please do not come to the office if your name has not been called.
- Do not ask for cash pay or personal checks, we do not pay by cash at this factory.
- No radio in the factory; headphones are acceptable.
- No personal telephone calls allowed. Only emergency calls will be accepted and you must take the call in the main office.
- Turn off your machines anytime you leave your station.
- All handbags, backpacks must be stored in the employee's lockers provided.
- All employees are responsible for their personal belongings.
- Employees must maintain a clean working station.
- No eating and drinking by work station. Drinking water is acceptable.
- All employees must fill-out a weekly evaluation form. Form # EV100300.
- All employees must participate in all safety and general meetings.
- Clothing and footwear: this factory requires all employees to wear suitable working attire. If necessary, Management shall request for change of clothing / footwear attire.
- If applicable, some employees must wear safety gear such as belts, gloves and masks.
- This factory provides tools to employees. The employee shall be held responsible if any item is not returned at a given time (certain circumstances are waived).

EMPLOYEES MUST COOPERATE AND FOLLOW WORKING ORDERS FROM ALL SUPERVISORS. PLEASE INFORM MANAGEMENT OF ANY PROBLEMS.

I ACKNOWLEDGE AND UNDERSTAND THE RULES / POLICIES OF THIS COMPANY. I ACCEPT THAT IF THESE POLICIES ARE NOT FOLLOWED IT CAN LEAD TO TERMINATION OF EMPLOYMENT. ALL INFORMATION ABOVE HAS BEEN FULLY EXPLAINED TO PREVENT ANY MISUNDERSTANDINGS.

Figure 23 – General Company Policy

| NIK | NAMA | TGL MASUK | JABATAN | NAMA BAGIAN | STS | TGL MULAI | TGL AKHIR | MATERI | JUDUL | Pre Test | Post Test | SERTIFIKAT | KLINIK |
|--------|------|-------------|----------|------------------|-------|-------------|-------------|----------------|----------------------|----------|-----------|--------------------------|----------|
| 111067 | | 06 NOV 2006 | OPERATOR | 32114-QIP BOTTOM | AKTIF | 23 JUL 2007 | 23 JUL 2007 | TRAINING LABOR | J.P.K. | 0 | 0 | <input type="checkbox"/> | KLINIK |
| 111067 | | 06 NOV 2006 | OPERATOR | 32114-QIP BOTTOM | AKTIF | 23 JUL 2007 | 23 JUL 2007 | TRAINING LABOR | JAMSOSTEK | 0 | 0 | <input type="checkbox"/> | ROSZA |
| 111067 | | 06 NOV 2006 | OPERATOR | 32114-QIP BOTTOM | AKTIF | 23 JUL 2007 | 23 JUL 2007 | TRAINING LABOR | KEBEBASAN BERSERIKAT | 0 | 0 | <input type="checkbox"/> | SPN PT |
| 111067 | | 06 NOV 2006 | OPERATOR | 32114-QIP BOTTOM | AKTIF | 23 JUL 2007 | 23 JUL 2007 | TRAINING LABOR | SISTEM KELUH KESAH | 0 | 0 | <input type="checkbox"/> | KANIAC |
| 111067 | | 06 NOV 2006 | OPERATOR | 32114-QIP BOTTOM | AKTIF | 23 JUL 2007 | 23 JUL 2007 | TRAINING LABOR | WORKING HOURS | 0 | 0 | <input type="checkbox"/> | MUR. INI |
| 111067 | | 06 NOV 2006 | OPERATOR | 32114-QIP BOTTOM | AKTIF | 23 JUL 2007 | 23 JUL 2007 | TRAINING LABOR | WAGE AND BENEFIT | 0 | 0 | <input type="checkbox"/> | MUR. INI |
| 111067 | | 06 NOV 2006 | OPERATOR | 32114-QIP BOTTOM | AKTIF | 23 JUL 2007 | 23 JUL 2007 | TRAINING LABOR | CUTI | 0 | 0 | <input type="checkbox"/> | ROSZA |

Figure 25 – Screen of computerised database of Human Resource Information System. It shows worker training records in Indonesian.



Figure 26 – Stop Harassment (“Pelecehan”) poster in Indonesian. It explains types/samples of harassment (sexual, physical, verbal and psychological) and provides a contact phone number.

Section 5 – Detailed Guidance on Specialised Areas

5.1 Recruitment & Employment Status – Different Types of Workers

5.1.1 Use & Management of Recruitment Agents

Definition

A *Recruitment Agent* is a person or organisation that provides employment services, assisting those seeking a job or helping potential employers to find the right candidates to fill particular jobs. Recruitment agents may also be referred to as 'employment agents' or 'labour agents' and in some cases, in addition to providing recruitment services, may actually manage the employment relationship. Public or government recruitment agencies tend to provide a very broad range of services which are largely supported by employer contributions to state unemployment funds. Private agencies play a major role in recruiting professional and managerial candidates.

Identifying Common Examples of Non-Compliance

- X** The factory uses a recruitment agent to hire workers but has no knowledge of the agent's operations or the manner in which candidates are treated.
- X** The factory knowingly uses an illegal 'agent' or continues to use an agent whose operations result in exploitation of job candidates and workers.
- X** The factory 'outsources' the entire employment relationship, i.e. in addition to helping recruit new workers for the factory, the agent also acts as the employer, paying wages, managing legal benefits and/or deductions, handling disputes, etc.

Guidelines for Managing Recruitment Agents

- ✓ Factories should identify reliable and legal agents, and ensure that any recruitment or employment agents which are used to help recruit workers comply with local legal requirements and operate in accordance with the adidas Group Employment Standards. It is the factory's responsibility to develop a system for monitoring recruitment agents and guaranteeing that workers do not bear any unreasonable costs in order to obtain a job at the factory.
- ✓ Factories must maintain a direct employment relationship with workers and are responsible for all workplace terms and conditions, i.e. factories may not 'outsource' the job of employer. Where an agency is involved in the recruitment process, workers should sign the labour contract directly with the factory.
- ✓ The factory must assume responsibility for recruitment agency fees and fees to obtain local work permits and visas and other legal requirements such as yearly medical examinations/check-ups.
- ✓ The factory should ensure the recruitment agency informs workers in advance, i.e. prior to the departure of their original location, the explanation of fees borne by employer and by employee and the method of payment. It should also be mentioned in the employment contract.
- ✓ Where there is no specific legal requirement to do so, as good practice the factory also bears the fees or at least subsidises the other fees such as transportation, accommodation or food on the way from/to factory.
- ✓ Fees for repatriation home must also be fully borne by the factory, as it is considered basic standard.
- ✓ The factory must ensure that any workers recruited through an agent receive the same treatment as workers hired directly by the factory. There must be no discriminatory treatment against workers hired through a recruitment agent.

5.1.2 Contract Workers

Definition

Contract employment, also referred to as casual or temporary employment or labour, is usually for a specific period, e.g. the peak season, or for a specific task or job function within production. *Contract workers*, unlike permanent employees, usually do not enjoy any job security, tenure or other benefits, even where the term of their employment, or their status, is governed by local law. This definition does not include probationary workers or external workers who come 'on site' to perform a job (under verbal or written agreement) not related to production, for example construction or renovation work.

Identifying Common Examples of Non-Compliance

- X** The factory hires workers on a contract basis as a means for depriving such workers of the correct wage and benefits, or other rights and privileges provided to permanent workers as a means of saving on labour costs.
- X** The factory binds workers through multiple short-term contracts to employment with no opportunity for advancement, social security or the benefits which come with seniority, in order to save on labour costs. Often, workers sign such contracts with no understanding of their rights, but are bound by the terms nonetheless at the risk of losing what little monies or benefits they receive if they break the contract and leave.
- X** The factory uses contract workers although it breaches the law.
- X** The factory hires contract workers on a continuous basis, on multiple short-term contracts, or as regular practice, to support normal business needs.
- X** The factory discriminates on the basis of personal characteristics when issuing short-term contracts. For example, the factory designates all female applicants who have children as contract workers while other applicants (i.e. male applicants or applicants without children) are made permanent employees.

Guidelines for Use of Contract Workers

- ✓ Factories may hire contract workers under the following circumstances:
 - Where contract employment is allowed by law.
 - In case of unusual or extraordinary circumstances which may result in great financial loss to the supplier if delivery of goods cannot be met on time.
 - In the event of an unexpected or unusually large volume of orders placed at the factory and the permanent workforce is not sufficient.
 - For those factories that produce seasonal items only, during their peak period of production, in which case the 'peak season' must be clearly defined and this information provided to adidas Group Sourcing or the responsible business unit and to SEA.
Note: Rather than relying on a continuous cycle of contract workers who may not be skilled, have no commitment to the factory and no long-term interest in the success of the factory, we expect our business partners to maintain a permanent workforce, of the appropriate size, which can cope with fluctuations in production schedules and seasons. Non-peak production seasons are an opportunity to engage in training, maintenance and housekeeping, and other work related activities. Conversely, permanent workers should not be subjected to excessive working hours during peak production periods.
- ✓ Any local laws governing contract workers must be observed. Specifically, refer to local regulations in relation to the number of short-term contracts that may be issued to a worker, and the maximum period for any short-term contract. Where local law is silent on specific aspects of contract employment, at a minimum, contract workers must be provided an employment agreement, setting out the employment terms and conditions. A contract worker should sign a contract each time he or she is rehired, for the purpose of tracking the total number and types of contracts issued to that worker.

- ✓ Where local law is silent on best practice, any contractor who has been continuously rehired on short-term contracts should be given the opportunity to secure permanent employment with the factory.
- ✓ The factory should establish a system for managing contract employment, beginning with a policy defining the job functions or tasks that contract workers are hired to perform, and maintain information on the use of contract workers in relation to production needs. Personnel files for contract workers must be maintained and accessible at the factory at all times, and record all relevant information, such as dates of entry, duration of contract, department/placement, date of last severance pay received, reasons for rehiring, and performance evaluation.
- ✓ A contract worker of the equivalent skill level, education and experience, who performs the same task as a permanent employee, should receive the same fundamental wage and benefits package as a permanent employee. As a minimum, contract workers must receive at least the minimum wage or the prevailing industry wage, whichever is a higher, and all legally mandated benefits such as social security, other forms of insurance, annual leave and holiday pay. Factory rules and regulations apply to contract workers the same as to permanent workers.
- ✓ Any contract worker who is rehired as a contract worker or as a permanent worker should retain the same ID number and the same personnel file.
- ✓ Contract workers must be given priority when the factory is seeking 'new' permanent employees.
- ✓ For any contract worker who becomes a permanent employee, seniority and other benefits such as social security entitlements must be dated from the first day as a contract worker, and not from the first day of permanent employment, i.e. all work-related benefits accumulate. Please refer to local regulation regarding legal mandated benefits.

5.1.3 Trainees

Definitions

a) Training: The process of acquiring knowledge and/or skills needed for a particular job or activity. This includes training for newly recruited, unskilled workers who require basic training before starting work in production areas; and ongoing training programmes for permanent workers who need to refresh or upgrade their skills in order to continue performing their job or for the purposes of promotion. The training may be 'one-off' or form part of a longer-term programme which lasts for several months. It also includes any forms of training that workers engage in for their personal development and career advancement.

b) On-the-Job Training: Refers to training provided to workers, focussing on job-related skills, to fill the gap between individual competence and job requirements, for example sewing skills training for sewing line workers, or computer training for office clerks.

c) Development Training: Refers to training provided to workers, especially managerial or technical staff, focussing on their career development and in consideration of organisational development and/or business strategy.

d) Worker: Refers to all employees including direct employees (in the production line) and in-direct employees (in the office, staff or managerial-level employees).

Identifying Some Common Examples of Non-Compliance

- ✗ The factory uses trainees or apprentices who work under training agreements without pay or pay less than legal minimum wage. The basic standards for apprentices and trainees regarding the terms and conditions of employment are not same as for regular or permanent workers.
- ✗ The factory deducts workers' wages in payment of any training received, or fail to pay workers for any hours spent in training, or other job related activities, including payment of proper overtime rates.

- x The factory binds workers to continued employment with the factory in return for having provided the training opportunity.

Guidelines in Relation to Worker Training

- ✓ Document the factory training plan and activities:
 - At policy level, Human Resources or Personnel should develop a training needs assessment and maintain and execute a training programme that reflects company objectives and the needs of different groups of workers, supervisors and managers within the factory. Any training policy or master plan should be reviewed and approved by senior management on a regular basis as needed.
 - At implementation level, each training course should also be documented in a plan which includes information about the type of training/curriculum; the location of the training, the trainers, the training period, any necessary equipment or other materials that need to be prepared or developed, the standards, metrics or other KPIs that will be used to assess the usefulness/effectiveness of the training, a list of trainees and method for their selection, the budget for the course or activity and training evaluation.
 - Training taken by any employee should also be noted on that individual's personnel file, including details of the training.
 - For regular or permanent workers in particular, participation in any training conducted after work hours must be voluntary and recorded.
- ✓ The factory must cover the costs associated with any training which workers are required or recommended to attend. Training fees and/or entry fees must not be collected from workers. In particular, for on-the-job skill trainings for the workforce, the factory has an obligation to provide free and non-binding training.
- ✓ Any time spent in training which production workers are required or recommended to attend must be paid. This includes training conducted outside of normal work hours, i.e. workers should be paid according to the proper overtime rates.
- ✓ Trade union officials must be granted reasonable time off to attend union-related training activities.
- ✓ In relation to any long-term training programme that a worker is required or recommended to attend (e.g. a programme which is ongoing over several months), if the employee is regularly taken away from his or her normal job function – either permanently for the duration of the training or frequently, e.g. several times per month – and this would affect additional salary items such as overtime payments, attendance or productivity bonuses, etc., then the factory must guarantee the individual's average monthly salary. Otherwise, the training will not be viewed as an opportunity but as a financial set-back.
- ✓ In relation to training which is undertaken for personal development or career advancement – e.g. life skills, language lessons, computer skills, vocational or management studies, etc. – factories should apply the following principles and guidelines:
 - If the factory requires or recommends participation, even though the training may not be directly related to the individual's job function or performance, then the guidelines above in relation to training fees and costs, wage payment, work scheduling and the employment relationship apply.
 - If, on the other hand, the worker requests the training opportunity or arranges and undertakes the training independently outside of work, it is at the management's discretion as to whether the factory will provide any financial support or other assistance. This would include any training that a worker wishes to take during work hours which the factory agrees to. In such cases, the factory may provide unpaid leave, or as a best practice, may provide paid leave and agree to subsidise or cover the training fees in full.
- ✓ Training Agreements between a factory and a worker may be signed under the following conditions:
 - Where such agreements are allowed by law.
 - The training provided is development training and will be attended on a voluntary basis.

- Factory management must ensure the worker understands the content of the Training Agreement before signing and receives a copy of the signed agreement.
 - The conditions of the agreement may specify a reasonable time period of employment after the training, but must not bind the worker to the factory.
 - The worker has the rights to resign, in which case the factory may require the worker to compensate the factory for any outstanding training charge on a pro-rated basis, but only where such an amount is reasonable, to be determined on a case-by-case basis depending on location, the worker's position in the factory, the amount of the training fees to be repaid to the factory relative to the worker's monthly wages, etc.
- ✓ In relation to Training Centres which are managed by the factory:
- Such centres should be located separate from production, and no saleable items may be produced by trainees.
 - All local laws in relation to registration and management of the centre should be observed.
 - Unskilled trainees or apprentices should also be provided an employment contract or training agreement which sets out the rights and obligations of the trainee/apprentice.
 - Factories must provide at least minimum wage, and observe the Employment Standards and local laws in relation to overtime rates and rest days. If the wage for trainees as specified by law is lower than that of permanent workers, the factory must pay its trainees at least the legal minimum wage of permanent workers.
 - The training period for an unskilled worker who is being trained to join a production area should not exceed three months or the time stipulated by local law for that specific work-related training.
 - Any training programmes should include clear evaluation criteria. This is particularly important for unskilled trainees and apprentices who are seeking regular or permanent employment.
 - Where the factory requires any trainee who has become a regular worker to continue training 'on the job', such workers must be treated as probationary workers or regular workers. If they are paid a lesser wage or have a less favourable wage and benefits package than other regular or permanent workers, adidas Group SEA will apply the 'genuine training programme test', i.e. SEA staff will look for evidence that the on-going training has clear goals, assessment and evaluation criteria, and is not being used as an opportunity to exploit workers by maintaining them on a lower wage on the pretext that they are still 'in training'. Any 'on-the-job' training must have a clearly defined timeframe and scope.

5.1.4 Migrant Workers

Definitions

a) Migrant Worker: The United Nations define 'migrant worker' as a person who is engaged or has been engaged in a remunerated activity in a state of which he or she is not a national, meaning anyone who moves between countries or locations for work. For the purposes of these Guidelines, this includes domestic or internal migration where workers move within the same country from one administrative unit such as region, province or municipality to another, and international migration where workers move between countries. Both forms of migration can result in a change in the legal status of the individual worker. This definition does not include refugees, displaced persons and other persons who leave their country.

b) Trafficking: A term referring to the recruitment, transportation, harbouring, or receipt of people for the purposes of slavery, prostitution, forced labour (including bonded labour or debt bondage), and servitude.

Identifying Common Examples of Non-Compliance

- x** The hiring of migrant workers through recruitment agents often results in forced labour. Recruitment agents are known to charge workers substantial amounts of money for finding the worker a job, transporting the worker to the job location, obtaining work visas and other permits. As many workers cannot afford such amounts, they repay the agent or the factory overtime from their wages, creating a situation of debt-bondage. For many migrant workers, it can be months or even years before they receive their wages in full and are able to send money home or make any personal savings.
- x** Many factories retain the personal identity documents (e.g. passport, national ID card) of migrant workers, often for 'safe-keeping'. The result is that many workers are unable to access their documents freely which makes it difficult to find alternative employment if conditions are bad, and can restrict freedom of movement around and out of the factory. In some cases, workers have been prevented from returning home because the factory has refused to return personal identity documents. Where conditions are very bad, workers simply leave the factory, forfeiting their passports or other personal ID documents. Eventually these workers fall into a 'gap' where they have no legal status at all, leaving them particularly vulnerable and unable to access any social or medical services.
- x** There are often major language and communication barriers between migrant workers and the factory management, supervisors and local workers. Many factories do not provide any proper orientation, training or other basic services to migrant workers, and rarely are they provided in the workers' native language. Migrant workers are frequently unsure of the instructions of supervisors, unaware of safety precautions, and have no channels for communicating grievances or problems.
- x** Migrant workers are routinely allocated the dirtiest or most difficult jobs in the factory, and are often paid below minimum wage or at a lower rate than that of their local colleagues. Benefits are often denied, such as access to medical or other services, and migrant workers are not allowed to take annual leave or sick leave. Any absence is penalised by deductions from wages. Common practice is to force female migrant workers to sign letters of undertaking that they will not become pregnant. Migrant workers are routinely discriminated against in relation to opportunities for training, promotion and other advancements. Discrimination is suffered by migrant workers in almost all aspects of their employment, from basic double standards in relation to pay rates, to disregard for their religious beliefs and practices, or dietary requirements. In many cases, workers who have become pregnant have been sent home or dismissed without payment of wages or the means to travel to their home country.
- x** Some factories impose forced savings schemes, i.e. they withhold wages until such time as the worker's contract is finished, providing the worker a small allowance for personal expenses, or wages are paid into bank or postal accounts which the worker cannot access. Factories claim that without this practice, migrant workers will save nothing as they tend to spend all their earnings on alcohol, drugs or gambling. Factories claim that this practice benefits migrant workers, but interviewed workers have a different perception. According to them, forced savings provide security for the factory, and are used to ensure that workers will not leave before their contract has finished; or the savings are used to pay for the return ticket home. Further, if the factory terminates the worker, or the factory goes out of business, the worker may lose everything. In short, workers feel trapped and are unable to send money home to help support their families, which is often the reason why they have become economic migrants.
- x** While some factories observe the legal limits in relation to working hours for their local workers, migrant workers are allowed or forced to work excessive overtime, which they are often willing to do in order to supplement their low salaries or because they believe they can pay off their debt faster.

- x Many migrant workers live in sub-standard conditions in dormitories on-site or rented housing in the local area. Little support is provided by the factory and there are few resources for migrant workers in terms of helping them to adjust to the local culture and environment. Many factories fail to provide basic assistance in relation to repatriating wages, providing the means for workers to be in regular contact with their families, or helping workers in emergency cases, such as serious ill health or the death of a family member.
- x Migrant workers in general are afforded few legal rights. Often they work without contracts, or are required to sign onerous contracts that they may not be able to read (because they are not provided a copy in their own language) and which limit their rights. In all aspects of the employment cycle, from their dealings with recruitment agents to the conditions they work and live under, to the end of their employment and the search for a new job or means of returning home, migrant workers experience great difficulties. Such difficulties are made worse by their separation from family and support networks, leaving them vulnerable to severe exploitation.

Guidelines for Recruiting and Treatment of Migrant Workers

In addition to all basic requirements set out in local law and the adidas Group Employment Guidelines which should be observed by factories in their treatment of *all* workers, below are key areas of concern, and actions which factories should take, in relation to migrant workers specifically:

General Status

- ✓ In relation to its recruitment policy, the factory must be able to determine and document the legal status of its migrant workers. What types of workers exist in the factory – local, domestic migrants, international migrants, a combination of all three? If the workers are migrants, are they legal? Have they obtained work in the factory through proper channels and are their identity documents, visas and/or permits in order? Has the worker overstayed a visa and found employment through a friend in the factory? If workers are found to be illegal, what problems can this entail for the worker, and is there a proper and fair method for repatriating the worker or obtaining legal status? Who bears the costs in such cases? How can the worker be protected? Each case is unique, and it is difficult to set out the exact process for managing the repatriation of an illegal worker. This is why it is extremely important that factories which hire migrant workers (regardless of whether they are domestic or international) can verify the legal status of all workers and have adequate policies and procedures in place for managing migrant workers.

Pre-Employment and Recruitment

- ✓ The factory has a comprehensive policy and clearly defined procedures for managing all aspects of the recruitment of migrant workers. There are multiple considerations which should be discussed internally and then incorporated into the policy and procedures:
 - How does the factory locate its migrant workers? By word of mouth and introductions from existing workers? Through a recruitment agent? How can the factory ensure that its workers are 'legal' and have not been trafficked or exploited?
 - If the factory uses an agent, is it operating legally? Is it a government-approved agent? Has the factory researched the agent's business operations and practices to ensure that it complies with local laws and the adidas Group Employment Guidelines? Does the factory monitor the performance of the agent? *(Note: workers themselves can provide valuable feedback on their treatment by recruiters and any improper practices or charges by the recruiter, during orientation.)*
 - What fees and payments are associated with the recruitment process – the agent's fee or commission? Medical tests required by law? Training fees? Transportation charges, such as airfares or ground/local transport costs? Meal and/or accommodation costs for the journey? Visa, permits and other documentation charges? Who is responsible for paying these amounts? Are they legal and reasonable? Has the factory reached agreement with the recruitment agent

regarding what amounts are reasonable and the method of payment? Does the factory assume responsibility for the key charges relating to the agent's fee, work visa/permit costs, significant transportation costs, and medical testing? Can the factory confirm that any amounts paid by workers are reasonable and will not place the worker in debt or result in ongoing monthly wage deductions?

- In cases where the factory takes migrant workers who are introduced by existing workers, the factory ensures that there are clear guidelines prohibiting the charge of 'introduction fees' paid by the worker to supervisors or other employees. Charging new recruits a commission to help them find a job in the factory should be grounds for disciplinary action against the person charging the commission.
- ✓ The factory is able to ensure safe passage and reasonable travel conditions.
- ✓ The factory signs a contract with the worker, which in addition to the usual terms and conditions also sets out those items which are specific to migrant workers, i.e. the various fees and charges as mentioned above, mode of transport between home and factory (this is particularly important for international migrants), the annual leave entitlement and any special 'home leave' benefits. Ensure that the contract conforms with the relevant legal requirements, especially in relation to migrant workers, e.g. contract must be prepared under the supervision of the local labour department, and/or signed before departing the home country/location for the factory, and/or endorsed by the sending government or authority. Ensure that the contract is in a language the worker understands, has been reviewed by the worker, and is signed by the worker and the factory directly, i.e. contracts should not be signed by recruitment agents on behalf of workers or factories. *(Note: Factories may also use the Standards of Migrant Worker Contract Guidelines issued by the ILO/IOM for reference.)*
- ✓ The factory maintains contact with the relevant embassies and government offices, as well as participates in any networks or groups which can lend support to migrant workers, as well as exchange ideas and practices about proper management of migrant workers.
- ✓ The factory keeps copies *only* of worker identity documents and work visas/permits on worker file. Originals should be kept by workers. Where workers live in dormitories, the factory should provide secure storage for such documents and other valuable personal items. If migrant workers specifically request the factory to hold their documents for safe-keeping, there must be a clear and simple procedure for workers to access or take back their documents at any time.

Orientation & Training

- ✓ The factory should determine what type of training has already been provided (if any) before leaving for the factory, e.g. has the migrant worker received government-sponsored training or did the recruitment agent provide any form of training or orientation? Ideally, the factory has an established relationship with any training centres and contributes to the training objectives and curriculum to ensure that it is appropriate and useful for both the worker and the factory.
- ✓ Regardless of where the training is delivered, i.e. at the sending or the receiving end, factories should ensure that workers have received orientation and training in the following topics:
 - Basic legal rights and entitlements, as well as obligations in accordance with all relevant laws.
 - Culture and practices of the host country or receiving community (i.e. even internal migrants may find that the local language/dialect, culture and practices around the factory location vary greatly from their home area).
 - Safe sex, reproductive health and HIV/AIDS prevention.
 - Factory rules and regulations, disciplinary system, communication systems and grievance processes.
- ✓ Where appropriate, the factory provides local language training for migrant workers. Migrant workers should also receive the worker handbook and/or factory regulations in a language they understand.

- ✓ The normal requirements of any training programme for all workers apply, i.e. sufficient budgeting, allocation of resources, evaluation, ongoing planning and delivery.

Specific Language Concerns

- ✓ All written signs and information must be printed in the migrant workers' native language.
- ✓ The factory provides cultural understanding and, where necessary, language training for supervisors. Simple miscommunications and/or misunderstandings can be avoided if supervisors and workers are sensitised to each other's cultural and communication styles.
- ✓ The factory must determine whether it requires a translator to effectively communicate with migrant workers who do not speak the language of the factory managers and supervisors. If necessary, are translators on hand and available for translation on the line during production?
- ✓ Is a translator also available to workers outside of work, especially in relation to personal problems or if the worker wishes to lodge a complaint or raise an issue for management's consideration? Non-production related translators should not be a member of the management team, but independently hired. When translators are seen as part of management, migrants will not trust the translator to convey the information truthfully, or to respect their privacy. Similarly, translators should not be regular production line workers themselves. This is an unfair burden in terms of extra work and responsibility to place on one worker. Ideally, factories should work with local NGOs or community service groups to identify reliable translators for this role.

Wages & Benefits

- ✓ Migrant workers should receive the same wage levels as local workers with commensurate skills and of similar position.
- ✓ Wage slips and any other documentation relating to wages and benefits should be provided in a language understood by the migrant worker.
- ✓ Any legal deductions, such as local taxation or social security contributions, should be properly explained to migrant workers as, most likely, they are even less familiar with such schemes than local workers.
- ✓ Provide all wages and other benefits directly to workers and not to any other person, e.g. any savings accounts must be in the name of the worker, not the factory. Wages must be paid in full, i.e. the factory may not withhold wages as part of a forced savings plan. Workers must be responsible for managing their own finances. As good practice, during orientation, factory staff explains the advantages of savings programmes and good financial management, as well as the available methods for sending money home. The factory also provides information about resources for workers if they are running into financial or behavioural problems away from home.
- ✓ Migrant workers are eligible for all paid leaves, i.e. annual leave, sick leave, etc. in accordance with local laws and the adidas Group Employment Guidelines. If local labour law does not specify the annual leave entitlement, then migrant workers should receive the same annual leave benefit as local workers or, in any event, at least seven days which is the generally accepted international minimum standard.
- ✓ In those cases where workers return home during their annual leave, the factory must keep their positions available upon their return. Otherwise workers will be discouraged from taking leave or visiting their families.
- ✓ As good practice, the factory will organise common transport solutions for migrant workers from the same locations, e.g. group airfares or busses.
- ✓ Where there is no specific legal requirement to do so, as good practice, the factory will nonetheless cover the travel costs for migrant workers home leave.

Working Hours

- ✓ Migrant workers must not be targeted specifically for overtime work or threatened with forcible return home or other punishments if they do not work overtime. Often local workers will refuse to work late or on weekends and public holidays and the factory will 'push' migrants to complete production. The same requirements in relation to working hour limits and voluntary overtime apply to migrant workers as to local workers.
- ✓ The factory must ensure that the working hours and production requirements are explained to migrant workers in a language they understand, as part of their orientation and training and/or set out in factory guidelines or worker handbooks.

Health & Support Services

- ✓ When migrant workers are ill or injured, ensure that they receive proper medical attention and are able to see a nurse or doctor with whom they can communicate or are accompanied by a translator.
- ✓ Establish a counselling or grievance service centre for migrant employees. The centre may perform a variety of functions. Specifically in relation to disciplinary practices, this can be the place where employees may report unauthorised forms of discipline, abuse or harassment. The centre should be suitably qualified to deal with complex or sensitive issues such as sexual harassment. The centre can also provide support services for managing common risks associated with alcohol and drug abuse and other problems experienced by migrant workers. The centre can also function as a training resource, providing ongoing information and updates to workers on general health issues. Workers need access to updated information on public health matters such as SARS, avian flu, and HIV/AIDS and other sexually transmitted diseases.
- ✓ Factories should pay special attention to the mental health and well-being of migrant workers. Many workers, especially in their first year on the job, feel isolated and lonely, and have no local friendships or support network. Factories can go a long way to establishing basic support mechanisms at the factory level. Partnering with local NGOs, health service centres and migrant worker community groups gives the factory a network of resources to draw on for more serious cases relating to the mental health of migrant workers or behavioural problems.

Living Conditions, Security & Leisure

- ✓ Where the factory has dormitories, migrant workers are given a choice of living in the factory dormitories or outside. Information regarding accommodation and transport options to and from the factory should be provided by the factory.
- ✓ The adidas Group Health & Safety Guidelines regarding dormitory conditions should be observed.
- ✓ The factory should maintain good communication with local police or public security regarding the presence of migrant workers in the factory and local community, to avoid any unnecessary detention or harassment against migrant workers by the local authorities. Some factories have adopted the practice of issuing workers with special identity cards that demonstrate to the satisfaction of the police that they belong to the factory and are legal workers. This means that workers do not need to have their passport, work visa or other identity documents on them at all times. Communicate with, and provide guidelines to, workers on how to react if they are stopped by police and clarify how the factory will support them if they run into any difficulty.
- ✓ Factories provide access to sport facilities, either by creating facilities on site or by facilitating transportation to municipal facilities.
- ✓ Factories provide access to internal recreation options, e.g. a recreation room with TV/VCR, pool table, table tennis, reading space/library with books and periodicals in the migrant workers language, etc.
- ✓ The factory participates in local sports activities for workers, and encourages workers to join through prizes, competitions and rewards.
- ✓ The factory organises/sponsors outings, activities, games, karaoke and parties for migrant workers.

- ✓ The factory recognises workers' religious observance and customs, and provides the necessary space for prayer or other religious activities, which may also involve allowing workers time off during working hours.
- ✓ Factory and dormitory canteens should take into account any dietary needs of the migrant workers in meal planning, related to religious or health requirements.

End of Contract / Repatriation

- ✓ The factory honours contracts with workers and does not use false reasons for terminating a worker prematurely or to avoid the costs associated with repatriation at the end of the normal contract term.
- ✓ If the economic situation changes and the factory is required to lay off workers, then the factory assists migrants to find new employment or provides the proper compensation package and covers the costs of returning home. Ideally, workers are given the choice of whether to remain and commence a new job, if legally possible, or return home. Proper compensation package is referring to legal law and employment contract.
- ✓ Where the initial contract period (usually 2-3 years) expires, and the factory and worker wish to extend, the factory should cover any costs associated with extending the work visa or paying any agent fees etc. The factory must also observe any contractual or legal requirements to allow the migrant worker a period of home leave. As a best practice, where there is no legal requirement to do so, the factory would also cover the costs of such home leave.
- ✓ In the event of serious ill health (as certified by an independent doctor) or if a migrant worker terminates the contract early for valid reasons, there must be no penalty, and the worker must have access to all savings and receive the usual assistance in repatriation as set out directly below.
- ✓ At the end of the contract, and where there is no extension, in the absence of any other contractual or legal obligation, the factory covers the costs of the migrant worker's return home. Depending on any agreements with the recruitment agent or government services, the factory must also handle the repatriation process itself, i.e. booking tickets, arranging transportation to the disembarkation point, etc.



Figure 27 – General safety and health education booklet for Burmese migrant workers

5.2 Privacy Issues

5.2.1 Body Searches

Definition

Body Search means to explore a person's body, when he or she is wearing clothes, for hidden or illegal objects in order to find such items hidden in the person's clothing or on the person's body.

Identifying Common Examples of Non-Compliance

- X Strip-searches must never be conducted. At the same time as violating fundamental rights to privacy and freedom, strip-searches constitute an inappropriate form of 'prevention' against theft and are poor disciplinary practice.
- X Body or bag searches must not be conducted *routinely* and only if the factory has clear legal authority to do so. At law, in most jurisdictions, there are only two legal bases upon which searches can be conducted:
 - Where there is reasonable suspicion of criminal activity
 - Where it is necessary for the safety and security of the public.
 In both cases, powers of detention and search are created under law, i.e. given to the police, immigration officers, airport security, armed forces and other public officers under specific legislation.

Guidelines for Conducting Searches

- ✓ Private security guards can only perform body/bag search if they have received appropriate training on handling body/bag searches. The training should include the guidance given below.
- ✓ Searches do not address the root cause, i.e. why theft is occurring in the first place. Factories should focus on management systems and prevention:
 - Maintain proper inventory of components and materials
 - Delegate responsibility for checking of equipment
 - Investigate the causes of theft
 - Conduct training and education on the issue, i.e. cost to the factory and, ultimately, workers.
- ✓ Management must clearly inform workers of the consequences for stealing and follow the progressive disciplinary system in cases of theft. There should be a written Disciplinary Policy with detailed procedures which covers the company regulations on stealing and body/bag searches.
- ✓ Depending on how a search is conducted, it may constitute discrimination or even sexual harassment, for example where female workers are searched by male security guards. In special cases where searches may be conducted, the search:
 - Must be done in privacy and by the same sex person
 - Must be at a random selection
 - Must not be conducted on a daily basis
 - Must be conducted in presence of employee representatives (and where this involves body searches the representative present must be of the same gender).
- ✓ Some examples of special cases are provided below:
 - Tools, equipment, materials or product regularly go missing from a specific production line or department. Systems are in place for tracking work product, materials and factory equipment. As soon as the loss occurs, i.e. on the same day, a basic search is conducted in the area where the items went missing. Only those workers with direct responsibility for, or access to, the missing items involved should be searched.

- The personal effects of an employee go missing, such as money or jewelry. The factory has policies which are clearly communicated to workers regarding the safe-keeping of personal items. (For example, items of value should be kept on the employee's person at all times. In special cases, where an employee needs to bring something of value to work, but it cannot practically be kept on the person, the employee may request safe-keeping of the item in management offices.) Only those employees with direct access to the missing items involved should be searched.

5.2.2 Closed Circuit Television (CCTV)

Definition

Closed Circuit Television (CCTV) is a television transmission system in which live or prerecorded signals are sent over a closed loop to a finite and predetermined group of receivers. This system is now widely used in many factory premises as part of the workplace monitoring and the US Custom's Trade Partnership Against Terrorism (C-TPAT) programme.

Identifying Some Common Examples of Non-Compliance

- X The installation of a CCTV system must not be used as a means to prevent workers from leaving the factory, or unreasonably restricting movement around and out of the factory including limiting access to bathroom facilities or fresh drinking water.
- X Factories are prohibited from installing a CCTV system in areas where privacy is to be strictly protected such as toilets, dressing rooms and dormitory areas. If unclear, please consult with local SEA staff.

Guidelines for Use of CCTV

- ✓ The installation of the CCTV system must be balanced against the need to protect individual rights such as privacy. This means the system must be installed only in public areas and no individual may be targeted by the camera.
- ✓ The factory shall include the locations where the cameras are installed in the workplace diagram. All employees must be notified of those places where cameras are located.

5.2.3 Fingerprinting & Scanning

Definitions

a) Fingerprinting: A fingerprint is the pattern of curved lines on the end of a finger or thumb, which is unique to every individual. Fingerprinting is the recording of this pattern for the purpose of identification.

b) Scanning: The use of a device/machine to record images or obtain information electronically. For the purposes of these Guidelines, scanning means the electronic recording or reading of fingerprints or other body parts for the purpose of identification, e.g. retinal eye scans.

Identifying Some Common Examples of Non-Compliance

- X The factory transfers from a swipe-card time recording system to fingerprinting and scanning for the purpose of tracking attendance and working hours, but fails to establish any policy or mechanisms to manage access to the new system, maintain data protection, and safeguard worker privacy.
- X The factory does not research its rights and obligations in relation to data management and work privacy before implementing a finger-printing system, and hands over worker records to representatives of the local authorities such as the police or local labour and security officers during their routine visits.

- ✘ The factory hires a contractor to install retinal scanning for entry to some production areas because some product is very commercially sensitive. Management would like to have the most secure attendance and access system available. However, no investigation is done into the safety of the proposed system and the factory does not conduct any background checks on the contractor or the use of the impact of the scanning system on employee health.

Guidelines for Identifying Workers and Recording Information

- ✓ Fingerprinting and scanning is now widely used for recording worker attendance as an alternative to the more traditional punch-card method or more recent electronic card swiping system. One important feature is that the factory can eliminate the use of swipe cards and avoid cases where workers are able to record attendance on behalf of their coworkers. The need to record attendance and working hours efficiently and systematically must be balanced against the need to protect individual rights, such as privacy. Factories need to identify and implement effective and appropriate mechanisms for recording attendance at work, the number of hours worked, and linking this information to the payroll and payment systems.
- ✓ Although fingerprinting ensures accuracy of attendance records, there is also some risk that such data could be misused. Factory management must keep all fingerprinting data strictly confidential and comply with the relevant local laws in relation to privacy and data management.
- ✓ Where the law is silent or unclear, factories should apply the following SEA guidelines:
 - For the purposes of identification, entry to the factory, recording attendance and working hours, use of finger printing and scanning should be carefully managed and monitored.
 - Finger printing and scanning should only be used for recording hours and employee attendance internally.
 - Appropriate policies and procedures should be developed stating the purpose for collecting data through fingerprinting and scanning, setting out the steps that will be taken to protect the data, and emphasising the importance of worker privacy and confidentiality.
 - The factory must adopt measures to ensure that personal information and/or fingerprints are not to be released to any third party unless compelled by law to do so. This means that management must clearly understand the powers of local authorities. For example, if a worker is being investigated by the police for suspected criminal activity, does a factory have to provide the worker's address or other contact information if requested to do so by the police, or should the police have to produce a warrant or court order? It is extremely important for factories to understand the extent to which they should protect employees as well as cooperate with authorities in such cases.
- ✓ Workers should be aware of the policy and procedures on fingerprinting and scanning so as to cooperate in the identification and time recording process, and so that they understand their rights. The fingerprinting and scanning procedure and usage should be written in the company policy/employee handbook and employees should be informed during the orientation training. The policy should be posted at the area of fingerprinting and scanning.
- ✓ Factories must ensure that fingerprinting or scanning machines do not pose any immediate or long-term danger to human health and are safe for occupational use. For example, scanning machines should not expose workers or operators to unsafe radiation or UV levels.

5.3 Industrial Relations

5.3.1 Worker- Management Committees

Definition

Worker-Management Committees are a group of worker and management representatives who work together to discuss and resolve issues or problems within the factory. The committee may also be used as the vehicle for investigating worker grievances, and can function generally as a communication channel between management and workers to identify areas for improvement in relation to workplace terms and conditions.

Guidelines for Establishing and Running Worker-Management Committees

Worker-management committees operate in different ways at different factories and serve a number of different functions. Some are used as a communication channel by management to notify workers about factory events, policies, production related issues, and other information of importance to workers. This type of committee provides very little opportunity for workers to express their views as the communication only flows from management to workers. In other instances, worker-management committees provide workers a platform to communicate grievances, discuss disciplinary measures, and make requests of management or also to come up with suggestions regarding production, productivity or other factory-related issues. This type of committee allows for two-way communication whereby worker representatives are able to provide critical feedback to the management team, allowing grievances to be resolved before they pose a serious problem, and giving workers a chance to contribute to business planning and development.

The general guidelines for establishing and running a worker-management committee are set out below.

Setting Up: Responsibilities and Goals

- ✓ The formation of an effective committee requires an equal number of employees and management representatives. There must be a senior decision maker from the management team on the committee.
- ✓ The committee should be large enough to include representatives from all relevant areas of the facility, but small enough to achieve a productive working atmosphere. Criteria can be established to help limit the number of committee members. For example, members might be appointed or elected from those production areas that are considered 'high risk', or where committee members can have contact with the greatest number of workers.
- ✓ Where more than one union exists in a factory, it would be appropriate to include representatives from each union on the committee.
- ✓ Committee administrative positions, such as chairperson and secretary, should be rotated between management and worker representatives.
- ✓ Prior to creating a worker-management committee, factory management should draft the scope of operation and functions of the committee, and roles and responsibilities of its members. This document should be reviewed periodically by the committee. In defining the role of the committee, where there is a union(s) in the factory, the committee should **never** be used to replace the work of the union.
- ✓ When drafting the scope of operation and functions of the committee, management should ensure that there are mechanisms for two-way communication. In other words, workers and management should have equal opportunities and be allocated equal time to raise topics for discussion in meetings. In addition to scope and function, the committee must consider and document the procedures for selecting members, and indicate how often and where the worker-management committee will meet.

- ✓ The information above should be communicated to all managers, supervisors, and workers so that everyone in the factory is aware of the purpose of the committee and the role it will play in the workplace.

Election of Worker Representatives

- ✓ It is important that workers elect their own representatives through a public or anonymous election process.
- ✓ A successful committee requires that members are motivated and knowledgeable about the area(s) they represent. However, knowledge can be acquired 'on the job' (i.e. on the committee) and it takes time to develop successful working relationships. It is recommended that a balance of experienced and new members be maintained. This means that committee members should serve for specified periods, staggering the start and end dates. Ensure that all members have the opportunity to serve on the committee for an equal amount of time.
- ✓ Worker representatives should be rotated regularly in order to allow as many workers as possible to participate in the worker-management committee.
- ✓ Worker representatives must be allocated time on a regular basis to notify workers in their line/departments about the topics discussed during committee meetings, and to answer any questions workers may have about the meetings. Management may also allocate a specific area where worker representatives can post information, providing feedback to workmates on the progress of various issues raised at committee meetings.

Meeting Scheduling

- ✓ Committee meetings should be conducted at least once every three months, although ideally they should be held on a monthly basis.
- ✓ Meetings should be held during working hours in order to ensure that members attend the meetings and do not have to stay after work to do so. There should be no obstacle for representatives to attend meetings during working hours.

Before the Meeting/Creating an Agenda

- ✓ An agenda should be drafted prior to each meeting so that committee members can list issues they would like to discuss during the meeting. Below are some examples of subjects the committee can focus on:
 - Health and safety on the production line, in the dormitories and in life around the factory
 - Working hours, wages and benefits
 - Welfare issues like food, accommodation, communications and banking services, telephones, email, bank transfers to 'home town'
 - Company regulations and procedures
 - Internal relationships between supervisor staff and workers
 - Productivity and manufacturing initiatives or projects, such as 'Lean'; how they will be implemented and impact the workforce
 - Special training and projects which involve workers
 - Company events and special activities - e.g. HIV/AIDS Day, Sporting Events, Environment Day
 - Worker suggestions and recommendations.
- ✓ In order to share the workload, the chairperson should designate an individual to take responsibility for preparing the agenda and circulating it before each meeting. This task should be shared between both management and worker representatives.
- ✓ Committee members should propose items for the agenda and provide these to the person responsible for the agenda in advance of the meeting. Before proposing an item, a member should gather all the facts and think through possible solutions or a recommended course of action which can be suggested at the meeting.

- ✓ To be effective, management-worker committees must be well organised. Members should come to meetings prepared.
- ✓ Members should complete any tasks within the timelines agreed by the committee at previous meetings and be prepared to report back to the committee on progress.

During the Meetings

- ✓ The chairperson should take responsibility for opening and managing the meeting. At its first meeting, the committee should agree on basic rules for running the meetings and ensuring smooth communication. The chairperson is responsible for running the meeting according to the rules. Basic rules might include such items as
 - Method of appointment or election of committee members
 - Length of term per committee member
 - Length of term of the chairperson and secretary
 - Total meeting time per meeting
 - Length of time per speaker
 - Total time for discussion on any one agenda item
 - Speakers may not be interrupted
 - Problem solving mechanisms, e.g. voting methods to resolve a dispute or agree on an action.
- ✓ Meetings should always be held as scheduled, and should only be cancelled in an emergency. In addition, they should not start late, or continue past the time allocated as this will undermine the function and operation of the committee.
- ✓ Members should always be on time to attend meetings and follow the meeting rules.
- ✓ The committee should maintain focus on the issues/problems and not on personalities or personal problems. The meeting should not start with extremely difficult issues. Get accustomed to problem-solving techniques by tackling more minor problems first.
- ✓ Committee members should ensure that the meetings do not become 'complaints' sessions. Meetings should be action-oriented and focus on solutions. When presenting or discussing issues, members should not do so in general terms, but come prepared with the facts and information and be specific about the problem and its suggested solution.
- ✓ At the beginning of the meeting, agenda items should be listed in order of importance. If workers and management cannot agree upon the order collectively, then management and workers may take turns raising items in order of importance. However, no issue on the agenda should be treated as unimportant. Each item deserves thorough investigation and discussion. It is also important to allocate time appropriately to each item discussed. Committees should set a limit for discussion on any single item. If a problem cannot be resolved in the time allowed, it can be tabled, with management and/or workers agreeing to investigate further, and report back at the next meeting.
- ✓ Meetings should be action-oriented, meaning that the committee should identify actions or solutions for items discussed, and individuals should be appointed to take responsibility for completing actions agreed by management and workers.

After the Meetings

- ✓ The minutes summarising each meeting should be drafted and maintained by factory management. The minutes should be signed by a representative from both management and workers and a copy should be provided to all members. They should also be posted in areas where workers can read them. Along with meeting minutes, the committee should maintain a record of actions completed or closed, and those items still 'open'.
- ✓ It is very important to communicate the results of committee meetings to employees at the workplace. There are several ways of doing this and some examples are listed here:
 - The secretary or a responsible person can prepare and post a brief summary or report of the committee meeting, agreed actions, and progress-to-date on 'old' action items.

- Members can provide informal updates to their workmates and colleagues during team meetings, lunch-time discussion groups and other factory activities.
 - Updates can be posted in company bulletin boards, newsletters or magazines, or circulated in leaflet form with monthly pay-slips.
 - If there is a union in the factory, the union may include updates in their newsletters, meetings or other activities.
- ✓ If workers are provided information about the committee operation and activities, it will increase their interest in, and support for, the committee and encourage the participation of other employees. In this way, the committee serves as a direct communication mechanism (i.e. with those worker representatives on the committee itself) and as an indirect form of communication with the larger workforce through the updates and progress reports.
- ✓ Members should not look for immediate results and be prepared for the fact that some problems may not have solutions that everyone can accept.



Figure 28 – The posters show that various worker-management communication channels exist in the Indonesian factory including a call centre, lunch meeting, magazine, wall magazine, HR Helpdesk, home visit, suggestion box and a music and information programme.

5.3.2 Management of Strikes

Definitions

a) Strike: Collective action by workers to stop or slow work in order to protest about some aspect of the workplace terms and conditions, including a previous agreement or proposed agreement between employees and management, or to make demands of management. Such action would include an organised strike by a trade union or group of worker representatives, or spontaneous action triggered by workers on a particular line or in a specific department, a short work stoppage, or a mass demonstration by workers at a designated time and location. Strikes may be considered legal or illegal depending on the local laws governing freedom of association, formation of unions and collective action by workers.

b) Lawful Strike: A strike will only be lawful if it is in compliance with the international and local laws on the right to strike. In many countries, strikes are considered legal when they are used by workers during collective bargaining negotiations, or when management violates one or more of the clauses signed in the collective bargaining agreement. Some jurisdictions require that workers register their intention to strike beforehand while in other locations workers may exercise the right to strike without any prior notification.

c) Unlawful Strike: Provided that international laws and local legislation on the right to strike exist in a given location, an unlawful strike is any labour action by workers that does not comply with the relevant laws and regulations. It is important to understand both the content of the relevant laws and regulations, as well as to determine the cause of the strike, in order to determine whether it is legal or not.

Guidelines for Managing Strikes

- ✓ Strikes may occur at the factory itself, and may be organised or spontaneous. Strikes may also be conducted as mass movements or protests in public places, and this can impact worker attendance, production schedules, and even public transport, i.e. access to the factory. In some cases, there have also been demonstrations at adidas Group offices and other facilities by workers of a factory that is on strike. Regardless of the details of the specific case, contact adidas Group Sourcing and the local SEA staff immediately, so that the adidas Group can assist factory management where relevant. In any event, the adidas Group must be informed within 24 hours of any strike or work stoppage in the factory.
- ✓ The local legal framework in each country is very different. Regardless of what the local laws stipulate, management must develop a Strike Management Policy as a part of its approach to management of industrial relations and handling of risks in the workplace, to ensure that any labour action is handled in a proper and lawful manner.
- ✓ Where a strike occurs in the factory:
 - Management must observe all related local laws and regulations in handling the strike and ensure that all actions taken during the strike comply with those regulations.
 - Management should not prevent workers from participating in legal strikes.
 - Legal strikes and demonstrations should be dealt with as labour disputes and should not involve the police or armed forces. Such disputes should be resolved by management, unions and labour authorities. The presence of the police or other public security forces would only be necessary if the strike becomes uncontrollable and dangerous to persons and property.
 - Establish proper communication with the appropriate worker representatives, i.e. if led by a union, meet as soon as possible with the union leaders or, where there is no union in the workplace, identify and meet with those workers who lead the labour action/strike.
 - Consider the best means for maintaining communication with the rest of the workforce during the period of the strike and/or any negotiations with worker leaders. It is important for management to designate an authorised spokesperson in all communications with worker representatives and the general workforce to ensure that the position of the management remains clear and consistent.
 - Try to determine as quickly as possible the cause of the strike. If workers request something *beyond* the law, management is strongly encouraged to negotiate in good faith and find a solution (this does not necessarily mean that management should meet all of the workers' demands). If communications with worker leaders or the general workforce do not proceed smoothly, and agreement on a solution cannot be reached, involve the local manpower or labour authorities and/or other resources, such as ILO officers to assist in resolving the dispute.
 - Management must not retaliate against workers for participation in strikes, for example by dismissing workers who lead strikes, by not allowing them to work overtime, by unreasonably transferring the workers between departments, or by threatening workers or their family members.

- ✓ Expected information from the factory:
 - The factory is requested to provide SEA staff with a chronology of events and the details of the strike. The summary of events should explain the background and reason(s) for the strike, details of worker demands, and the status of communication with the workers, including any negotiated agreements. The factory must also provide any relevant documents related to the strike or causes for the strike, e.g. the demand notice from workers, the management's reply, minutes of any meetings with worker representatives, or details of any communications with the labour department.
 - The factory must inform SEA staff if there are any queries from NGOs or the media. Please refer to the SEA memo on *Handling Journalists' Calls and Requests to Visit Factories*.
- ✓ Role of adidas Group SEA:
 - SEA staff should not visit a factory where a strike is being conducted.
 - SEA staff will not be involved in any *negotiations* between management and workers.
 - As a general principle, SEA staff will not be involved directly in any meetings between management and workers on strike. In some cases, where there is a request from either party, i.e. factory management or workers for SEA to attend such meetings as an observer for some other valid purpose, SEA may agree to do so in the presence of labour department or other authorities, such as ILO officers.
 - SEA staff will provide any feedback or recommendations to factory management, as well as keep Sourcing and other relevant parties within the adidas Group updated on the progress of the strike.
- ✓ SEA staff will keep the factory notified of any activity that occurs at an adidas Group site, such as a demonstration by striking workers outside an adidas Group office, and the steps that are being taken to manage such action by workers.

5.4 Management of Layoffs and Redundancies

Downsizing and redundancy may be considered during times of recession, or where there are specific financial or organisational issues facing a factory, such as plans for relocation or for other critical operational reasons.

Whatever the reasons, the layoff of workers should be undertaken only as a last resort and only after the factory has fully considered and assessed what other alternatives are available to manage operating costs, including minimising the use of outsourcing or temporary contract labour, reducing working hours, suspending recruitment, allowing workers to take paid or unpaid leave and, when appropriate, offering early retirement. In all cases the factory should follow the requirements of the local labour law and provide due notice to, and consult with, worker representatives over planned layoffs and redundancies.

Further detailed guidance is available in SEA's *Guidelines on Handling Layoffs and Redundancies*.