



2010

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** New Balance Athletic Shoe,  
Inc.

**COUNTRY:** Honduras

**FACTORY CODE:** 9700291110I

**MONITOR:** Grupo de Monitoreo  
Independiente de El Salvador

**AUDIT DATE:** October 26, 2010

**PRODUCTS:** Fabric

**PROCESSES:** Weaving, Quality Control,  
Dyeing, Packing, Exporting



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\*Denotes a Notable Feature

### **Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses**

WBOT.5 Employers shall provide all legally mandated holidays, leave, benefits and bonuses, such as official holidays, annual leave, sick leave, severance payments and 13th month payments, to all eligible workers within legally defined time periods. In addition, all leave and bonuses shall be calculated correctly. (S)

#### **Notable Feature**

**Explanation:** Factory provides workers with 2 additional non-monetary benefits: a) free transportation for employees who live in [Town name]; b) subsidy for food, so workers spend less money than the regular cost of food.

**Plan Of Action:** Supplier is encouraged to continue providing workers with free transportation and to expand to other remote locations that make it difficult for workers to get to and from the factory. Supplier is also encouraged to continue providing workers with subsidized meals, beyond what is presently required by law.

**Deadline Date:** 01/17/2011

**Supplier CAP:** Free company transportation has been expanded to cover more routes and other neighboring towns besides [Town name]. Food subsidies have continued and apply to all workers earning minimum wage.

**Supplier CAP Date:** 02/13/2012

**Action Taken:** Follow-up audits have documented that the factory has continued and expanded transportation services and that the factory continues to provide a food subsidy.

September 2013 Update: Supplier now provides meal subsidies of 14 Lps/day to all hourly workers.

Plan Complete: Yes

Plan Complete Date: 09/17/2013

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### **Wages, Benefits and Overtime Compensation: General Compliance Wages, Benefits and Overtime Compensation**

WBOT.1 Employers shall comply with all local laws, regulations and procedures concerning the payment of wages and benefits, including overtime compensation. In any case where laws and the FLA Code are contradictory, the standard that provides the greatest protection for workers shall apply. Where provisions are lacking, employers shall take measures to reasonably accommodate matters concerning the payments of wages and benefits, including overtime compensation. (S)

#### **Noncompliance**

**Explanation:** Factory does not pay the 25% surcharge over the regular wage, for night shifts, even though Article 329 of the Honduran Code of Labor mandates this. From payrolls reviewed, it was found that the factory has not paid this premium during the 1-year period from November 2009 to October 2010. Affected employees include all the employees that have worked the night shift during that period. Management explained that Honduran lawyers consider this article as obsolete, and therefore, they do not adhere to it. However, there is no legal reason to justify the non-application of this rule.

Legal Reference: Article 329 of the Honduran Code of Labor

**Plan Of Action:** The Honduran Labor Code states that all the nighttime work must be paid with a premium of 25%. In Spanish, Artículo 329 reads: "El trabajo nocturno, por el solo hecho de ser nocturno, se remunera con un recargo del veinticinco por ciento (25%) sobre el valor del trabajo diurno. Con el mismo recargo se pagarán las horas trabajadas durante el período nocturno en la jornada mixta". Translated to English, this reads: "night time work, for the simple reason of being performed during the night, is remunerated with a surcharge of twenty 5 percent (25%) over the value of day time work. Hours worked at night (after 7pm) when mixed with daytime hours are paid with the same surcharge". We therefore request that [Factory name] pay a 25% premium for all nighttime work immediately. In addition we request that back pay be given to all workers who have worked the night shift without the additional 25% compensation.

**Deadline Date:** 01/28/2011

**Supplier CAP:** Supplier does not agree with these findings and/or with the company request to pay the 25% premium to night-shift workers, arguing that it is not required to do so by law. To support their position, the supplier responded on January 14th, 2011 by submitting a copy of a letter, dated September 29, 2005, from the Honduran Labor Inspectorate's legal department, where it is stated that the 25% additional premium pay is not required for night shift workers, and instead it is meant for day shift workers whose regular hours are extended into the night shift (7PM to 5AM) or who normally work day shifts but have been told to work the night shift. The Honduran DOL letter has been submitted in support of the supplier position and has been sent to FLA for review.

**Supplier CAP Date:** 02/04/2011

**Action Taken:** As per the subsequent company audits, the supplier has been able to demonstrate, and has fully documented on payrolls, that a payment of a 25% wage premium is being given to workers, when such workers have originally been assigned to work a day shift, but only when work hours extend into the night shift hours. This supplier, however, still argues and continues to rely on a Honduran Labor Department written interpretation of "Article 329", dated September 29, 2005, which was submitted to FLA for review. This letter from the Labor Department states that they are not required to pay a 25% premium for workers whose regular work schedule is during night shift.



**Plan**      **No**  
**Complete:**

**Plan**  
**Complete**  
**Date:**

**Follow Up**  
**Plan of**  
**Action:**

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### **Freedom of Association: Grievance Procedure**

FOA.26 Employer shall have in place written grievance procedures that allow first an attempt to settle grievances directly between the worker and the immediate supervisor but that, where this is inappropriate or has failed, it is possible for the worker to have the grievance considered at one or more steps, depending on the nature of the grievance and the structure and size of the enterprise. Employers shall ensure that the grievance procedures and applicable rules are known to workers. (P)

#### **Noncompliance**

**Explanation:** There is no documentary evidence that the factory has an internal comments or grievance system, when this benchmark requires that these procedures be in a written form.

**Plan Of Action:** New Balance requires every supplier to have written procedures by which workers can effectively channel any work issues or concerns including complaints, so that they may be satisfactorily and internally resolved in a reasonable period of time. These procedures are referred to as "Grievance Procedures" (Procedimientos de Quejas). Grievance procedures provide the means for workers to report violations of the New Balance Code of Conduct and violations of the supplier's policies and procedures. They also give the factory management the ability to learn about employee concerns and to respond quickly and effectively to problems as they arise. Grievance procedures can take many forms but all will include several key elements: multiple channels of reporting, confidentiality, and responsiveness. The company requests the factory owners to please develop a grievance procedure policy and implementation plan for our review by February 4, 2011.

**Deadline Date:** 02/04/2011

**Supplier CAP:** Submit evidence that the new written policy and procedures on grievance procedures has been put into place.

**Supplier CAP Date:** 02/06/2012



**Action Taken:** Supplier has instituted several new grievance procedure mechanisms that go beyond instructing workers of HR's open door policy and the relocation of suggestion boxes. A new system was instituted under the leadership of a new HR Manager, where worker representatives from each department meet with upper management every Thursday afternoon to discuss any and all issues affecting them. Management then guarantees the worker representatives that their complaints and concerns will be followed up and taken seriously. During a company audit that took place in August 2012, the auditor was able to examine the details of this program, including conducting thorough reviews of minutes from worker management meetings.

**Plan Complete:** Yes

**Plan Complete Date:** 08/14/2012

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### **Harassment or Abuse: Discipline/Progressive Discipline**

H&A.2 Employers shall have a written system of progressive discipline (e.g., a system of maintaining discipline through the application of escalating disciplinary action moving, for instance, from verbal warnings to written warnings to suspension and finally to termination). Any exceptions to this system (e.g., immediate termination for gross misconduct, such as theft or assault) shall also be in writing and clearly communicated to workers. (P)

#### **Noncompliance**

**Explanation:** Factory does not have a written system of progressive discipline. Despite this, there were some written warnings in some personnel files. Management explained that supervisors in the event of bad behavior use them. However, management admitted that they do not have a discipline process that explains in writing the application of these warnings or other disciplinary actions.





**Plan Of Action:** NB (New Balance) is requiring that [Factory name] develop and implement disciplinary procedures for managing all issues that may arise during the course of the work day and which may merit disciplinary action(s). Written disciplinary policies that are progressive in form should be well defined, with clear rules, and listing the actions, which could result from each infraction. All workers shall know, ahead of time, the work rules and how infractions will be addressed and followed. The primary purpose of a progressive disciplinary policy is to help the worker understand that there can be a problem with their work progress and that there is an opportunity to correct this. In other words, the policy should seek to correct behavior rather than to punish.

**Deadline Date:** 02/04/2011

**Supplier CAP:** Supplier has now put in place a disciplinary policy in line with internationally accepted standards on progressive disciplinary practices, requiring verbal warnings, followed by written warnings and suspensions, before terminating workers.

**Supplier CAP Date:** 08/13/2012

**Action Taken:** Company verification audit of August 2012 has documented that the supplier is now applying more formalized and internationally accepted disciplinary measures.

**Plan Complete:** Yes

**Plan Complete Date:** 08/13/2012

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**Harassment or Abuse: Discipline/Review of Disciplinary Action**

H&A.3 The disciplinary system shall include possibilities for workers to have disciplinary action imposed on them reviewed by someone at a higher managerial position than the manager who imposed the disciplinary action. In addition, such a system shall include the ability of a worker to appeal and/or question any disciplinary action against him or her and/or have a third party of his or her choice present when the disciplinary action is being imposed. (P)

**Noncompliance**

**Explanation:** As factory does not have a disciplinary system, there is no possibility for workers who receive a written warning on them reviewed by someone at a higher managerial position.

**Plan Of Action:** New Balance is requiring that [Factory name's] disciplinary policy include possibilities for workers to have disciplinary action imposed on them reviewed by someone at a higher managerial position than the manager who imposed the disciplinary action. In addition, such a system shall include the ability of a worker to appeal and/or question any disciplinary action against him or her and/or have a third party of his or her choice present when the disciplinary action is being imposed.

**Deadline Date:** 01/28/2011

**Supplier CAP:** Workers are now afforded the opportunity to appeal all disciplinary actions to upper management, which now as a matter of practice, review and give final approval to the actions.

**Supplier CAP Date:** Supplier action to be verified during September 2013 audit.

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

### **Harassment or Abuse: Discipline/Worker Awareness and Participation of Workers**

H&A.6 Workers must be informed when a disciplinary procedure has been initiated against them. Workers have the right to participate and be heard in any disciplinary procedure against them. Employers shall maintain written records of all disciplinary actions taken. Workers must sign all written records of disciplinary action against them. Such records must be maintained in the worker's personnel file. (P)

#### **Noncompliance**

**Explanation:** Since the factory does not have a disciplinary procedure, workers are not granted the right to participate and be heard when disciplinary action is taken against them. The disciplinary system at the factory only has to do with the imposition of written warnings due to bad behavior. Some of these written warnings were found in personnel files but management recognized that there is not a written procedure.

**Plan Of Action:** New Balance expects that [Factory name] include in its written discipline policy and procedures a guarantee that workers will be informed when a disciplinary procedure has been initiated against them. Workers have the right to participate in and be heard in any disciplinary procedure initiated against them. Employers shall maintain written records of all disciplinary actions taken. Workers must sign all written records of disciplinary actions against them. Such records must be maintained in the worker's personnel file.

**Deadline Date:** 01/28/2011

**Action Taken:** Supplier action to be verified during September 2013 audit.

**Plan Complete:** No

**Plan Complete Date:**

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### Harassment or Abuse: Discipline/Training of Management

H&A.7 Employers shall ensure managers and supervisors are fully familiar with the factory disciplinary system and trained in applying appropriate disciplinary practices. (P)

#### Noncompliance

**Explanation:** There was no documentary evidence that managers or supervisors have been trained on discipline. Supervisors that were interviewed confirmed that.

**Plan Of Action:** New Balance is requiring that [Factory name] provide training to all managers and supervisors on the proper interpretation and application of the company's disciplinary policy and procedures. Evidence that such training has taken place shall be documented and submitted to New Balance for review.

**Deadline Date:** 02/28/2011

**Action Taken:** Supplier action to be verified during September 2013 audit.

**Plan Complete:** No

**Plan Complete Date:**

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### Harassment or Abuse: Violence/Harassment/Abuse

H&A.13 Employers shall ensure that the workplace is free from any type of violence, harassment or abuse, be it physical, psychological, sexual, verbal, or otherwise. Employers shall refrain from any action – and shall take all appropriate action to ensure that all workers refrain from any action – that would result in an intimidating, hostile or offensive work environment for workers. (S)

#### Noncompliance

**Explanation:** Management has not taken all the appropriate actions to ensure that the workplace is free from any type of violence, harassment or abuse. Factory does not have a written policy against sexual harassment. According to the management, meetings are on hold in order to allow workers to report any cases of harassment and abuse to the human resources manager. However, there is no documentary evidence of that. Besides, the factory does not have a procedure for reporting cases of harassment and abuse and according to worker interviews, it was found that employees have not been told what mechanism they have to report situations that may constitute harassment or abuse.

**Plan Of Action:** New Balance expects [Factory name] to develop written policies and procedures to ensure that the workplace is free from any type of violence, harassment or abuse, be it physical, psychological, sexual, verbal, or otherwise. Employers shall refrain from any action that would result in an intimidating, hostile or offensive work environment for workers, and shall take all appropriate actions to ensure that all workers refrain from any action that would result in an intimidating, hostile or offensive work environment for workers.

**Deadline Date:** 01/28/2011

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**

**Code Awareness:**

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

**Noncompliance**

**Explanation:** Workers are not verbally informed about Code provisions. This was evident from worker and management interviews. Management even recognized that there are no regular efforts to communicate the code.

**Plan Of Action:** New Balance expects [Factory name] to develop a plan to provide all workers with information about the workplace standards verbally and through the posting of standards in a prominent place (this includes the internal work rules and company policies and our code of conduct) and undertake other efforts to educate employees about the standards on a regular basis.

**Deadline Date:** 02/28/2011

**Action Taken:** The factory communicates workplace standards and policies to workers when they are hired. And workers sign acknowledging that they've reviewed the written policies. During the last audit, in September 2013, workers interviewed acknowledged that they had management had informed them of the company's policies. In addition, policies and codes of conduct are posted throughout the facility where workers can see them.

**Plan Complete:** Yes

**Plan Complete Date:** 09/10/2013

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**Code Awareness:**

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

**Noncompliance**

**Explanation:** There is no secure communication channel that allows employees to report any noncompliance directly to the company.

**Plan Of Action:** New Balance expects to develop a secure communication channel, in a manner appropriate to the culture and situation, to enable company employees and employees of contractors and suppliers to report to New Balance on noncompliance with the workplace standards. They will be given the security that they will not be punished or prejudiced for doing so.

**Deadline Date:** 04/29/2011

**Supplier CAP:**

**Supplier CAP Date:**

**Action Taken:** New Balance routinely shares company contact information with supplier employees, so that noncompliance can be communicated directly. Complaints are kept anonymous while addressed with management. A follow-up internal audit is planned for September 2013.

Update September 2013: A sample of workers were interviewed and they were each given New Balance contact information in case they need to submit complaints or issues of non-compliance.

**Plan Complete:** Yes

**Plan Complete Date:** 09/10/2013

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### Health and Safety: Evacuation Requirements and Procedure

H&S.9 All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, the installation and maintenance of an employee alarm and emergency lighting systems, ensuring aisles/exits are not blocked and that workers are not blocked within their workstations, employee education, evacuation procedures, etc.) shall be complied with. Workers shall be trained in evacuation procedures. Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually. (S)

#### Noncompliance

**Explanation:** In the tumble dryer areas, there is no accessible emergency exit. Besides, there is no evidence that any worker has been trained on evacuation procedures.

**Plan Of Action:** New Balance expects [Factory name] to ensure that all workers are trained in evacuation procedures and that all areas of the factory, including the tumble dryer area, have an easy form of escape. Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually.

**Deadline Date:** 01/28/2011



**Action Taken:** Workers are trained on evacuation procedures and evacuation drills are held three times a year. Workers interviewed during the September 17, 2013 audit expressed that they felt adequately prepared to evacuate the facility in the event of a fire. In addition, the factory has opened an additional emergency exit in the tumble dry area, leading to an open space.

**Plan Complete:** Yes

**Plan Complete Date:** 09/10/2013

### Health and Safety: Safety Equipment and First Aid Training

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

#### Noncompliance

**Explanation:** Fire fighting equipment is not sufficient. In the weaving department there are 4 fire extinguishers, and 2 of them are "BC" type. This means that they are made to be used on fires caused by flammable liquids and electrical equipment, not for fires caused by solid materials. This is an important point because in this area there are fabric and textile materials and therefore extinguishers should include type "A", which are those used to control fires caused by solids like textiles. Besides, during the observation tour, it was found that the charge of fire extinguisher number 20 had expired in September 2010.

**Plan Of Action:** New Balance expects that [Factory name] have adequate fire fighting equipment, such as fire extinguisher(s) of the type that are appropriate to the type of material, chemicals or solvents that are present in its vicinity. [Factory name] especially needs to address the deficiency found with fire extinguishers in the weaving department and conduct a thorough review and needs assessment in all other areas of the factory.

**Deadline Date:** 01/28/2011



**Action Taken:** The factory has undertaken to increase its fire safety. During the last audit, dated September 17th, 2013, all fire extinguishers reviewed were fully charged, and the appropriate fire extinguishers were available throughout the facility.

**Plan Complete:** Yes

**Plan Complete Date:** 09/17/2013

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### **Health and Safety: Ventilation/Electrical/Facility Installation and Maintenance**

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

#### **Noncompliance**

**Explanation:** There is a noncompliance of this benchmark for the follow reasons: a) the environment in weaving is considerably full of speck and from the observation tour, it was found that out of the 12 extractors, 6 were out of service; b) in the warehouse and dyeing areas, there are not adequate ventilation systems. The temperature in the warehouse was 34.5° Celsius and there was no airflow system, neither fans nor windows. Temperature in the dyeing section was 35.8° Celsius and out of 9 fans, 6 were out of service.



**Plan Of Action:** New Balance expects [Factory name] to do all it can to protect the health and safety of all its workers. In this respect, we expect management to ensure that all ventilation, including air extractors in all sections of the factory, undergo regular maintenance and are kept in working order. In the weaving area, where the ventilation was identified as being unacceptable, it is expected that a comprehensive review by a health and safety expert be conducted to determine the best and quickest way to correct this. The company has requested that the factory provide evidence that all air extractors are in proper working order and that the factory has implemented a system by which there will be regular review of its upkeep.

**Deadline Date:** 02/28/2011

**Action Taken:** Currently all extractor fans are functioning in the storage and dying area, and there are fans installed at workstations in the dye area to increase worker comfort. Factory conducted temperature readings throughout the facility, and the results reflect improved working conditions.

**Plan Complete:** Yes

**Plan Complete Date:** 10/09/2013

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## Health and Safety: Sanitation in Factory Facilities

H&S.22 All facilities including factory buildings, toilets, canteens, kitchens, and clinics, shall be kept clean and safe and be in compliance with all applicable laws, including relevant sanitation, medical and safety and health regulations. (S)

### Noncompliance

**Explanation:** From an observation tour, it was found that the men's bathrooms were really dirty. The floor was wet and 1 urinal and 1 toilet did not work. In the women's bathrooms, 1 toilet was out of service and just 2 toilets were working. Workers interviewed revealed that the bathrooms are dirty almost all the time.

**Plan Of Action:** New Balance expects [Factory name] to develop and implement a management system that will effectively ensure that all the bathroom/toilet facilities are properly maintained and remain reasonably clean at all times. [Factory name] should submit the plan to New Balance as evidence that this issue has been corrected.

**Deadline Date:** 01/28/2011

**Supplier CAP:** A management system for the proper maintenance of toilet and rest facilities has been created and is now functioning.

**Supplier CAP Date:**

**Action Taken:** Current factory policies provides for bathrooms to be cleaned multiple times throughout the day, to ensure they are kept clean.

**Plan Complete:** Yes

**Plan Complete Date:**

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**Health and Safety: Other - Health and Safety**

Other

**Notable Feature**

**Explanation:** The factory has a project that contributes to the preservation of the environment. It consists of generating steam from biomass. In this way, the gas emissions are environmentally friendly.

**Plan Of Action:** No additional action is required.

**Deadline Date:**

**Action Taken:**

**Plan Complete:**

**Plan Complete Date:**

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