

## **IV. FLA INDEPENDENT EXTERNAL MONITORING SUMMARY and ANALYSIS**

*A summary of the data that was collected through FLA independent external monitoring visits during the period January-December 2004.*

In 2004, FLA-accredited monitors conducted 94 independent monitoring visits at factories producing for FLA companies in eighteen countries. During the visits, the monitors evaluated factory compliance with the [FLA Workplace Code of Conduct](#) and applicable national and local laws.

The reports from each of these 94 factory visits, along with company plans to remediate the reported noncompliance issues, are available to the public on the FLA website. By reviewing individual factory reports, readers can learn about particular factory conditions and different companies' approaches to remediating various noncompliant issues.

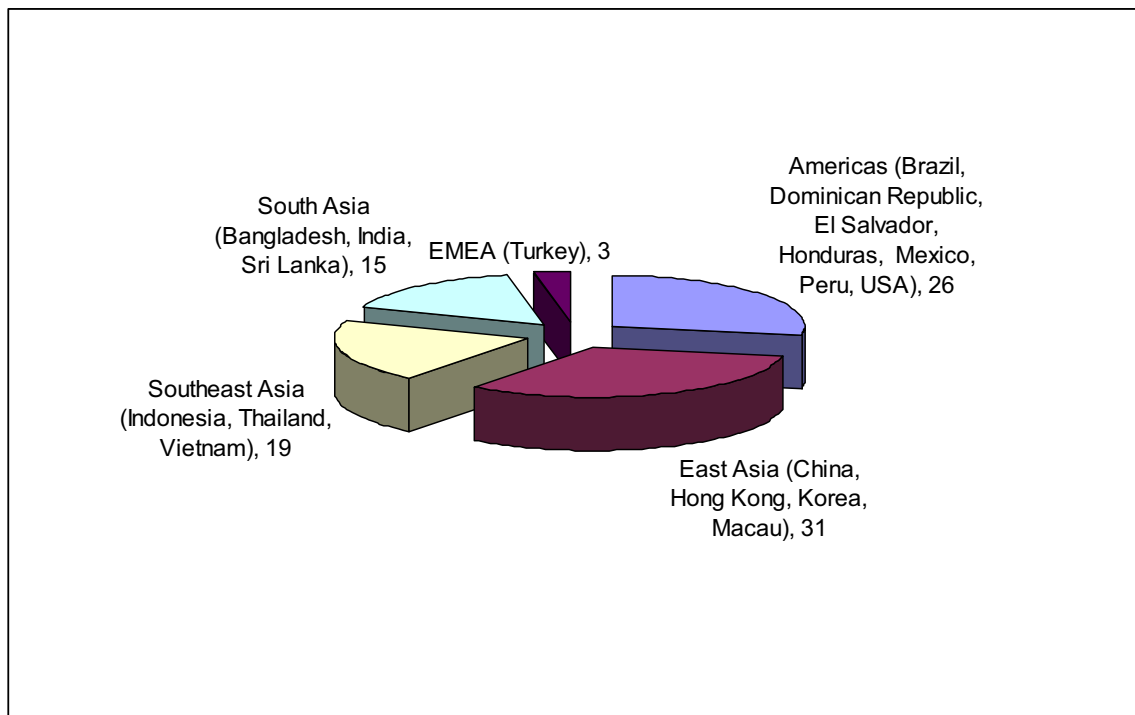
This report is divided into two parts:

- **[Monitoring the FLA Supply Chain](#)**  
Provides an overview of the FLA's monitoring and of the supply chain of its companies
- **[Findings and Analysis](#)**  
Makes observations about monitors' findings for each FLA Code provision

## FLA Independent External Monitoring: Facts and Figures

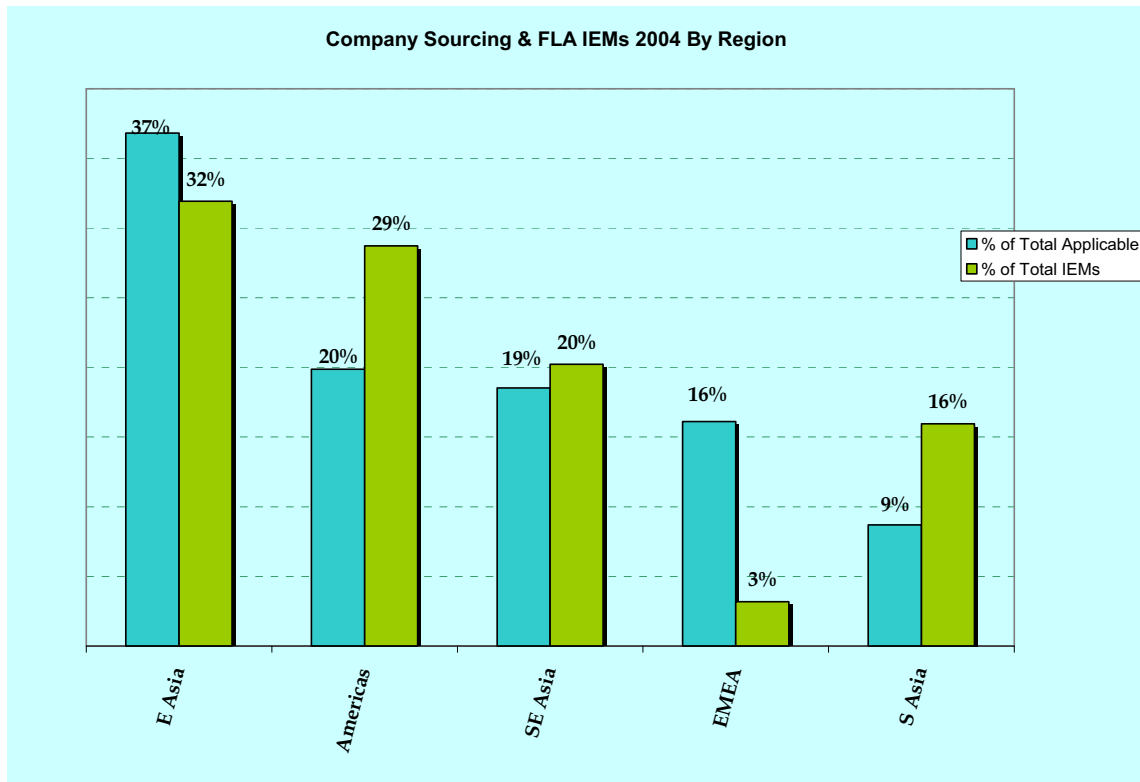
In 2004, the FLA conducted independent external monitoring (IEM) visits to 94 facilities worldwide, representing at least 3.3 percent of each company's applicable factory base in high-risk regions. The IEMs were conducted in 18 countries, with the greatest number occurring in East Asia (31) and the Americas (26), followed by South East Asia (19), South Asia (15), and Europe, the Middle East, and Africa (EMEA) (3). (See Graph 1). Of the 94 IEMs, 28 were "shared," meaning that two or more FLA-affiliated companies or licensees sourcing in the same facility participated in the remediation of the noncompliance issues reported by the FLA monitor. Shared audits enable companies to have a greater impact throughout their supply chains. Working together, companies pool resources to achieve shared goals; avoid duplication and streamline the corrective actions required at a factory; share experiences in remediating particular noncompliance issues; and have greater leverage in making changes in the factory.

Graph 1: FLA IEMs in 2004 – Regional Distribution



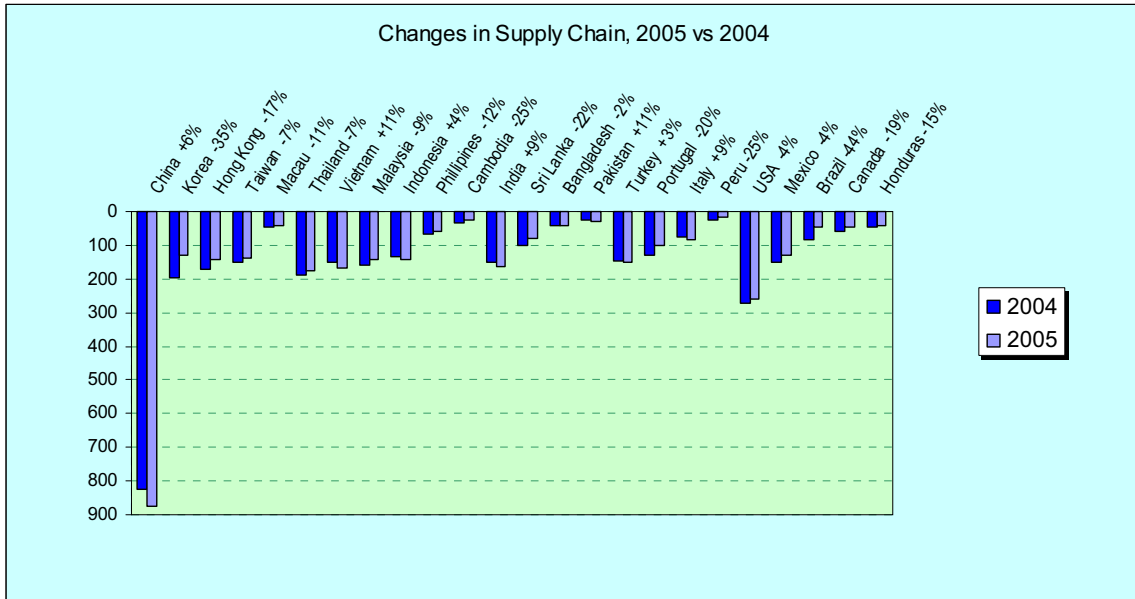
In 2004, 37 percent of factories contracted by FLA companies were located in East Asia, 20 percent in the Americas (including the U.S.), 19 percent in South East Asia, 16 percent in EMEA, and 9 percent in South Asia. The regional breakdown of FLA monitoring visits roughly reflects this distribution with two notable exceptions: EMEA, where 16 percent of the factories were located, but only 3 percent of the IEMs were conducted, and South Asia, with 9 percent of the factories but 16 percent of the IEMs (Graph 2). This discrepancy arises because the methodology for selecting the random sample assigns weights to factories based on risk factors, with factories considered to have higher risk of noncompliance having a higher probability of selection. Thus, the EMEA region was considered as lower risk of noncompliance than South East Asia, South Asia, and the Americas. A second reason for the discrepancy is that the location of monitoring visits is also influenced by the presence of FLA-accredited monitors in a given country. With a view to ensuring broader coverage of the FLA's independent monitoring program, the FLA is working to increase the number of accredited monitors in key locations and also working to improve the quality of monitors and the quality of the audit tools.

Graph 2: Company Sourcing and FLA IEM Locations in 2004



Graph 3 compares the factory base of FLA companies in 2004 and 2005 by country. The graph illustrates the continuation of the shift in the regional distribution of FLA companies that was observed in previous years. While each FLA company has a different sourcing strategy, most have increased the number of factories they contract with in South East Asia and South Asia, while reducing the number of factories in the Americas (including the U.S.). For example, the number of FLA contract factories in 2005 grew by 11 percent in Vietnam and Pakistan, 9 percent in India, and 6 percent in China; at the other extreme, the number of factories declined by 44 percent in Brazil, 20 percent in the Dominican Republic, 4 percent in Mexico, and 4 percent in the U.S. These changes in the regional distribution of factories occurred prior to the expiration, effective January 1, 2005, of the Multi-Fibre Arrangement (MFA), the agreement that governed international trade in textiles and apparel for over three decades. For more information on the expiration of the MFA and its implications for production shifts and for global labor standards please read the 2005 Feature Issue in this report.

Graph 3: Changes in the Supply Chain of FLA Companies, 2005 v. 2004



The 94 FLA monitoring visits conducted in 2004 took place in factories producing apparel, footwear, and equipment. Eighty-four visits were conducted in apparel and equipment factories, and the remaining 10 in footwear factories. One notable difference between FLA company presence in apparel factories versus footwear factories is that individual companies tend to represent a considerably smaller percentage of total factory production in apparel facilities than in those producing footwear. Apparel factories typically have many brands as customers; footwear factories tend to have fewer customers and typically dedicate 100% of a facility to a brand. A second difference relates to the number of employees, with apparel plants typically having fewer employees than those producing footwear.

## **FLA 2004 Independent External Monitoring (IEM): Findings and Analysis**

This section provides an overview of the aggregate findings of FLA independent external monitoring (IEM) visits conducted in 2004. As is evident from a review of [FLA factory tracking charts](#), information collected during FLA monitoring visits is qualitative in nature. In the interest of tracking trends and making comparisons, the FLA has translated qualitative information collected during IEM visits into quantitative data. Please read the side bar to learn about the way this data was collected.

*Side-bar for this section:*

### ***Understanding the data reported in this section***

To understand the data reported in this section, take for example the FLA Code provision relating to Harassment or Abuse. The FLA Workplace Code states: "Every employee will be treated with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment or abuse." The [FLA Benchmarks](#) provide monitors with guidance about the meaning of each FLA Code provision ([click here](#)<sup>i</sup> to see the benchmarks for Harassment or Abuse). By way of example, if in the context of an IEM a monitor were to observe that: (1) workers in a factory are not allowed access to toilets; and (2) a manager is verbally abusive to workers, the monitor would report to the FLA instances of noncompliance with regard to two benchmarks, that is, two instances of noncompliance even though both relate to the same Code provision. In contrast, if a monitor were to observe several instances of noncompliance with a single benchmark in a given factory, these will be counted as one noncompliance. For example, if a monitor were to observe restrictions on access to toilets in different sections of the factory, these distinct instances of noncompliance would be cited once under Harassment or Abuse.

Thus, the frequency of noncompliance with a particular Code provision can provide some general sense of factory conditions, but does not necessarily present the complete story. Additionally, because the investigations are qualitative in nature, the quantitative information provided should not be taken as hard statistics but rather as indications of trends in the FLA supply chain. The FLA is continuing to work in developing a database for improved processing and reporting of data collected during IEMs. Please access individual [factory tracking charts](#) for a more comprehensive and detailed look at factory conditions.

FLA findings and analysis are reviewed in the following sections:

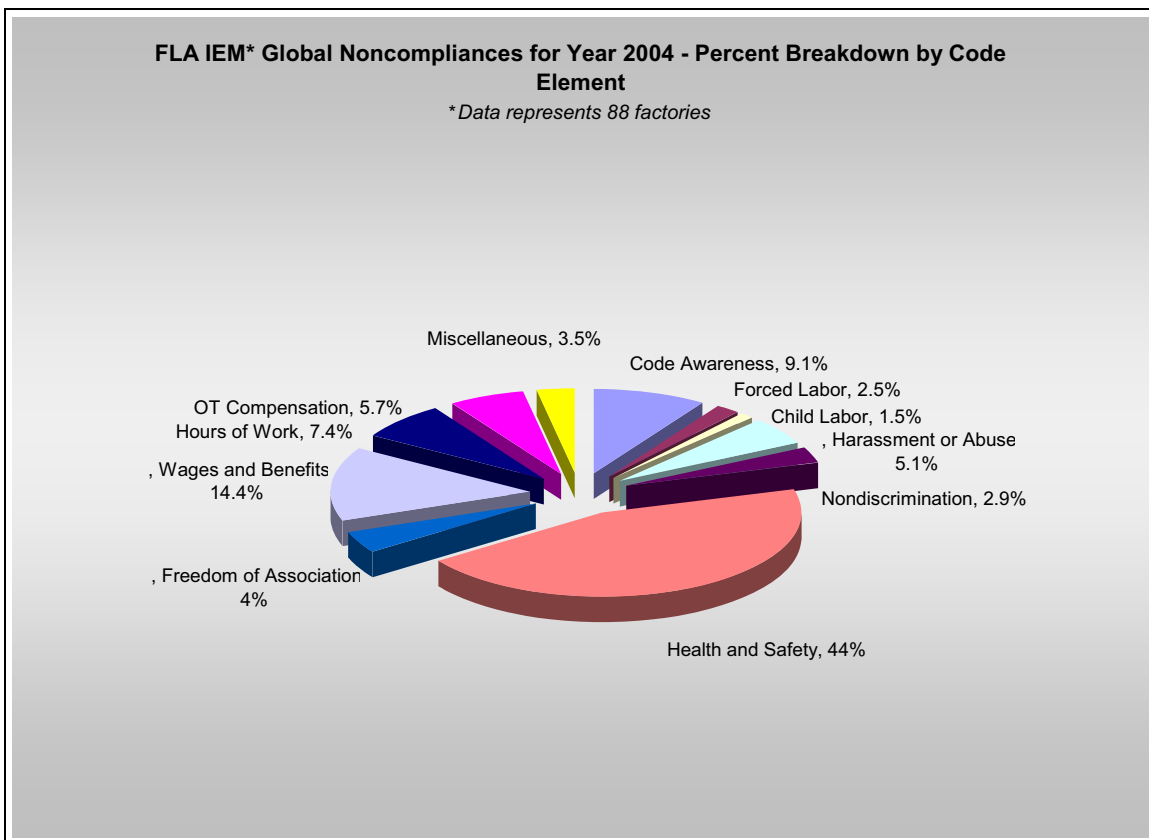
- [\*\*IEM Findings in Terms of FLA Workplace Code Provisions: An Overview\*\*](#)
- [\*\*Health and Safety\*\*](#)
- [\*\*Wages and Benefits\*\*](#)
- [\*\*Hours of Work\*\*](#)
- [\*\*Overtime Compensation\*\*](#)
- [\*\*Freedom of Association and Collective Bargaining\*\*](#)
- [\*\*Code Awareness\*\*](#)
- [\*\*Forced Labor\*\*](#)
- [\*\*Child Labor\*\*](#)
- [\*\*Harassment or Abuse\*\*](#)
- [\*\*Nondiscrimination\*\*](#)
- [\*\*Miscellaneous\*\*](#)

## IEM Findings in Terms of FLA Workplace Code Provisions: An Overview

In 2004, IEMs were conducted at 94 facilities. Monitoring findings from 88 of those visits have been compiled and processed for inclusion in this report. Findings from six facilities have not been included because full information was not available at the time of processing. Thirty-seven of the IEMs (39 percent) were conducted in factories with fewer than 500 employees, 20 IEMs (21%) in factories with between 501 and 1,000 employees, 22 IEMs (24 percent) in factories with between 1,001 and 2,500 employees, and 15 IEMs (16%) in factories exceeding 2,500 employees.

Overall, 1,603 noncompliance issues were observed by monitors and reported to the FLA in 2004. The distribution of noncompliances in 2004 by Code element is shown in Graph 4. Most of the instances of noncompliance (44.0 percent) corresponded to the Health and Safety Code element, followed by Wages and Benefits, Hours of Work, and Overtime Compensation combined (27.5 percent), Code Awareness (9.1 percent), Harassment or Abuse (5.1 percent), Freedom of Association (4.0 percent), with smaller shares for other Code provisions.

Graph 4: FLA 2004 IEM Findings by Code Element



Note: Data represents 88 factories.

The 1,603 noncompliance issues observed in 2004 translated into an average of roughly 18.2 instances of noncompliance per factory (based on the 88 IEMs completed at the time of this writing). IEMs conducted at plants with fewer than 500 employees averaged about 12 instances of noncompliance, while those at plants ranging from 501 to 1,000 employees averaged about 20 instances of noncompliance, those at plants ranging from 1,001 to 2,500 employees averaged just under 19 instances, and those at plants with over 2,500 employees averaged about 25 instances.

The 18.2 instances of noncompliance per IEM in 2004 compares with 15.1 instances of noncompliance per factory identified in the previous cycle of FLA monitoring (Year Two, corresponding to calendar year 2003). The reader is cautioned not to interpret increases in the rate of noncompliance over time as indicating a deterioration in working conditions in the supply chain subject to IEMs, but rather to several factors, among them improvement in the quality of monitors used by the FLA, enhancements in the audit instrument, and greater experience of the monitors with the audit instrument and FLA monitoring requirements. Moreover, it is important to note that noncompliance with a benchmark may represent a technical violation regarding a labor compliance process rather than a substantive violation of a labor standard. For example, none of the factories that were independently monitored in 2004 showed evidence of forced or bonded labor. The bulk of the noncompliance findings for the Forced Labor Code provision related to personnel or record-keeping practices that did not comply with FLA standards. Similarly, there were no reports of children actually working in the factories that were audited; about a quarter of the instances of noncompliance with the Child Labor Code provision identified in 2004 had to do with incomplete or fraudulent age documentation and a similar share had to do with factories not addressing legal provisions applicable to juvenile workers, who have reached the minimum legal working age as defined by local law, but due to their age are limited in the kind of work that they are allowed to do.

The FLA has continued to increase the level of quality control of monitoring reports by headquarters staff, which has also improved the rigor of monitoring results. FLA staff examined all factory reports and reviewed areas that needed further clarification with monitors. In some cases, FLA staff accompanied monitors on IEM visits to evaluate their approach to monitoring and reporting, and to help them to improve.

Despite these improvements, the FLA recognizes that there is a continued need to improve the quality of monitoring. Based on experiences in factories, it is apparent that FLA findings related to certain Code provisions such as Freedom of Association, Harassment or Abuse, and Discrimination, do not mirror the realities on the ground. Improving the monitoring methodology with respect to these areas and monitors' capacity to utilize it is expected to bring about necessary improvements in the quality of data that the FLA collects.

Finally, it is important to note the limitations of monitoring, which captures instances of noncompliance but does not analyze the root causes. This is not to say that monitoring efforts have not resulted in improvements in worker rights and working conditions. On the contrary, there are several forms of noncompliance that have a significant impact on workers, such as the non-payment of wages and overtime, that upon detection result in immediate remediation (payment of overdue amounts) and benefit to workers. Nonetheless, there is a need to move beyond monitoring to proactively address the root causes of the noncompliances and implement remediation responses that are sustainable and preventative. The FLA is seeking to enhance monitoring efforts and move beyond the current generation of monitoring through a new methodology, termed FLA 3.0 which is being piloted through FLA projects such as the sustainable compliance and soccer projects. For more information on FLA projects and how they enhance overall FLA monitoring please read the Special Projects chapter in this report.

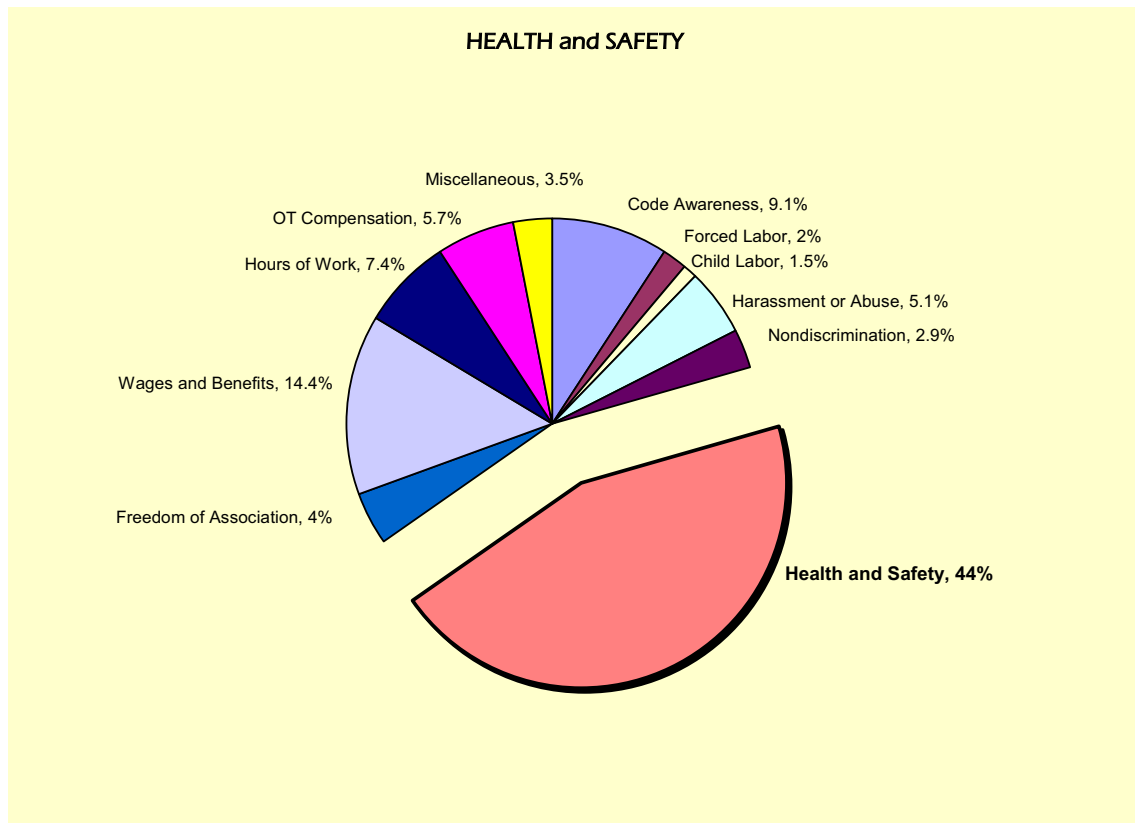
[Health and Safety](#)  
[Wages and Benefits](#)  
[Hours of Work](#)  
[Overtime Compensation](#)  
[Freedom of Association and Collective Bargaining](#)  
[Code Awareness](#)  
[Harassment or Abuse](#)  
[Forced Labor](#)  
[Nondiscrimination](#)  
[Child Labor](#)  
[Miscellaneous](#)

## Health and Safety:

**WORKPLACE CODE PROVISION: "Employers will provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities."**

[Click here](#)<sup>ii</sup> to access FLA Benchmarks for this provision.

Graph 5: FLA 2004 IEM Findings – Health and Safety



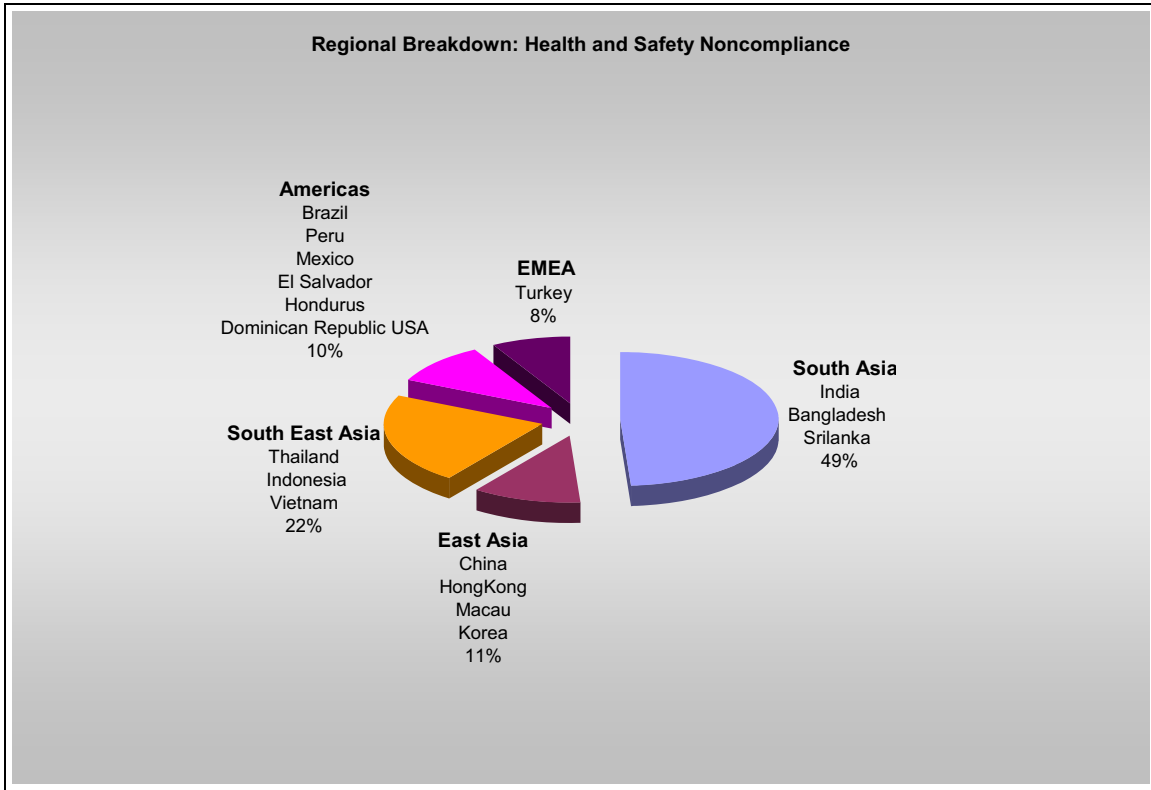
*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

The most commonly reported noncompliance issues remediated in 2004 related to Health and Safety, making up a total of 44.0 percent of all reported noncompliances (Graph 5). Health and Safety issues reached as high as 53 percent of the total number of instances of noncompliance reported from IEMs in South Asia and the EMEA region. As compared to other Code provisions, e.g., Freedom of Association, Harassment or Abuse, or Nondiscrimination, many Health and Safety issues are readily detectable through physical inspection. This may in part explain its high rate of reported noncompliance vis-à-vis the other Code provisions. Nonetheless, the findings clearly indicate that Health and Safety issues are pervasive around the globe. Nearly one-half (49 percent) of the total number of noncompliances regarding Safety and Health originated in South Asia, about one-fifth in South East Asia (22 percent), and the rest were about equally distributed among the Americas, East Asia, and the EMEA region (Graph 6).

Please [click here](#) to visit the tracking charts to review how various companies have worked to remediate these and other issues.



Graph 6



*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

In 2004, 22 percent of the instances of Health and Safety noncompliance corresponded to violations of the posting and evacuation procedures benchmark, while 12 percent related to safety equipment, 11 percent to personal protection equipment, and 10 percent to ventilation/electrical/facility maintenance.

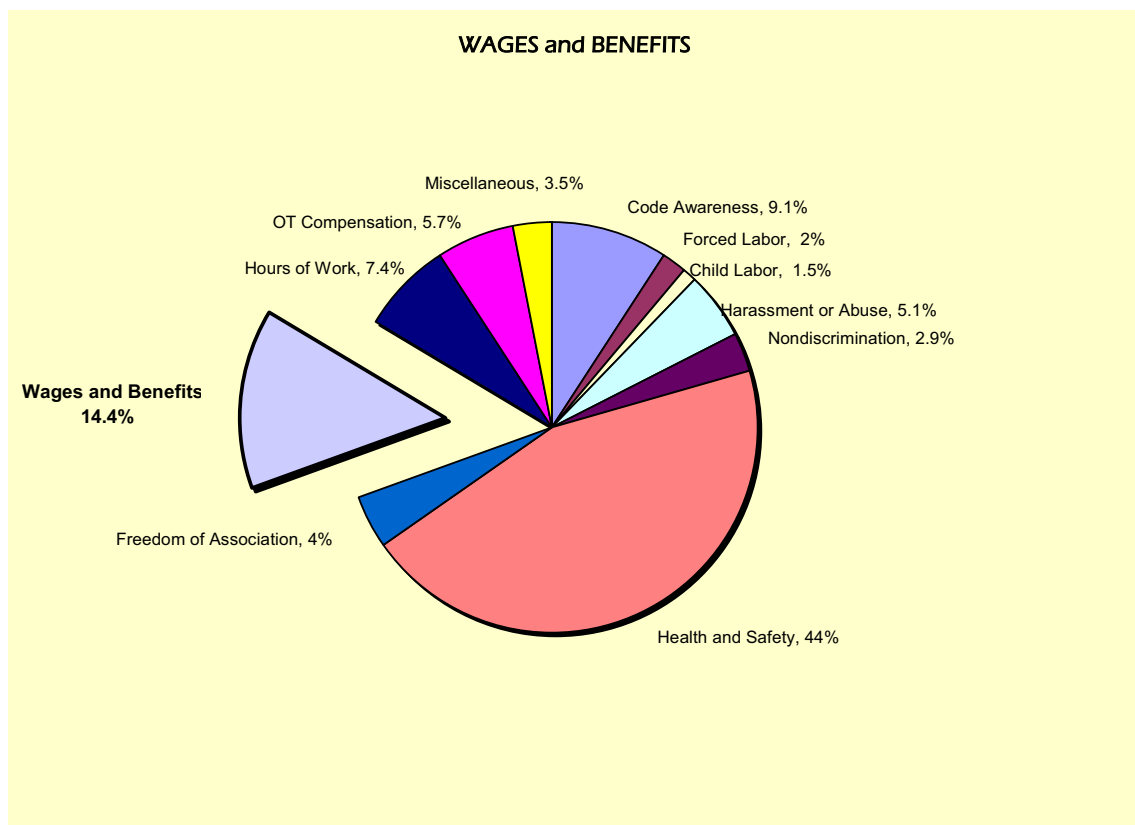
[Click here<sup>iii</sup>](#) to access a breakdown of reported noncompliance issues in 2004 tallied according to the Health and Safety benchmarks.

## ***Wages and Benefits:***

**WORKPLACE CODE PROVISION: “Employers recognize that wages are essential to meeting employees’ basic needs. Employers will pay employees, as a base, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and will provide legally mandated benefits.”**

[Click here](#)<sup>iv</sup> to access FLA Benchmarks for this provision.

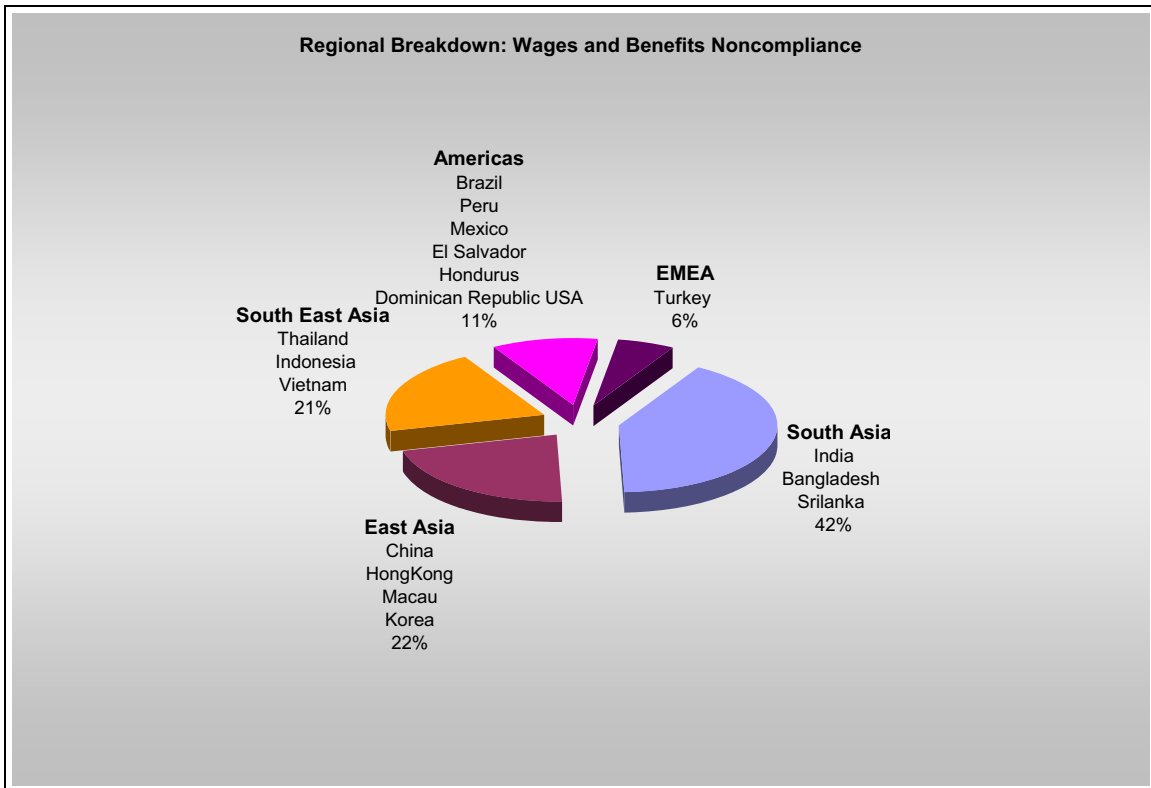
Graph 7: FLA 2004 IEM Findings – Wages and Benefits



*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

The Wages and Benefits provision had the highest rate of reported noncompliance in 2004 after Health and Safety, with 14.4 percent of all noncompliances (Graph 7). [Click here](#)<sup>v</sup> for a complete breakdown of the 231 incidents of noncompliance with the Wages and Benefits Code provision in 2004. Overall, noncompliances related to Wages and Benefits accounted for 14.4 percent of total reported noncompliances. In the East Asian region, however, 20 percent of reported noncompliances related to the Wages and Benefits provision. South Asia accounted for 42 percent of noncompliances related to Wages and Benefits, while East Asia accounted for 22 percent and South East Asia for 21 percent (Graph 8).

Graph 8



Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.

Among the most commonly reported noncompliance issues were factory failure to pay workers' legal benefits (14 percent of noncompliance with this Code provision), inadequate time recording systems (10 percent), lack of worker awareness of their wages and benefits (9 percent summing up incidents of noncompliance related to wage and benefits awareness, posting of wages and benefits, and access to information on wages and benefits), and noncompliance regarding payment of the legal minimum or prevailing industry wages (8 percent).

As is the case with regard to Health and Safety findings, the high rate of noncompliance with this Code provision may in part reflect monitors' relative strength in monitoring for noncompliance in this area. Noncompliance with this provision can often be identified through a review of records, since factories are required to document hours of work, pay, and benefits. A trained monitor can often find evidence of noncompliance through a review of time slips, payroll records, pay slips, overtime records, and other documentation. Worker interviews can also elucidate noncompliance since a series of questions can highlight whether a worker understands a factories' pay system or whether pay reflects the hours worked.

Despite the high rate of noncompliance with Wages and Benefits, however, some observe that it may still be underreported. With periodic monitoring by sourcing companies and other independent groups, factory personnel have become sophisticated in concealing noncompliance related to wages. They often hide original documents and show monitors falsified books. In 2004, 4 percent of the incidents of noncompliance regarding the Wages and Benefits Code element related to false payroll records and record maintenance. While it is not backed by verifiable evidence, it is likely that the rate of incidence of falsified records relating to hours and wages (i.e., Hours of Work and Overtime Compensation) is higher than actually reported.

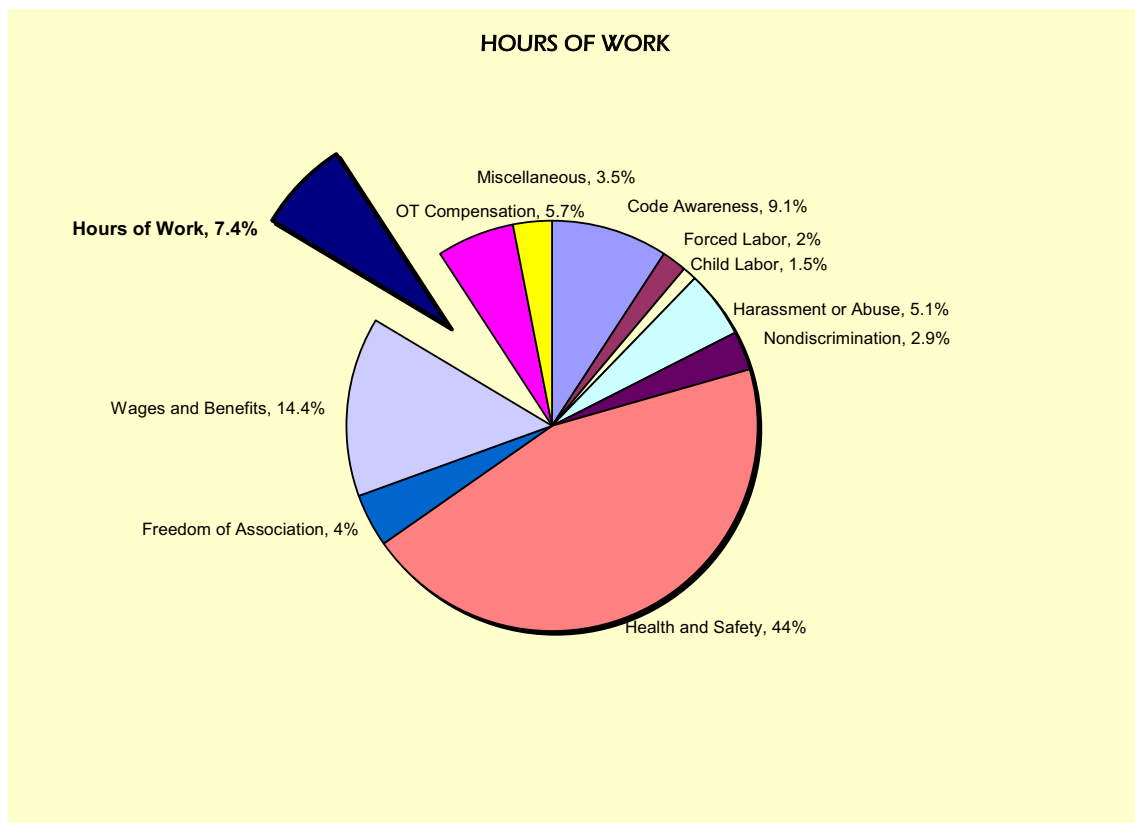
Please [click here](#) to visit the tracking charts to review how various companies have worked to remediate these and other issues.

## Hours of Work

**WORKPLACE CODE PROVISION: "Except in extraordinary business circumstances, employees will (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country will not limit the hours of work, the regular work week in such country plus 12 hours overtime; and (ii) be entitled to at least one day off in every seven day period."**

[Click here](#) to access FLA Benchmarks for this provision.

Graph 9: FLA 2004 IEM Findings – Hours of Work

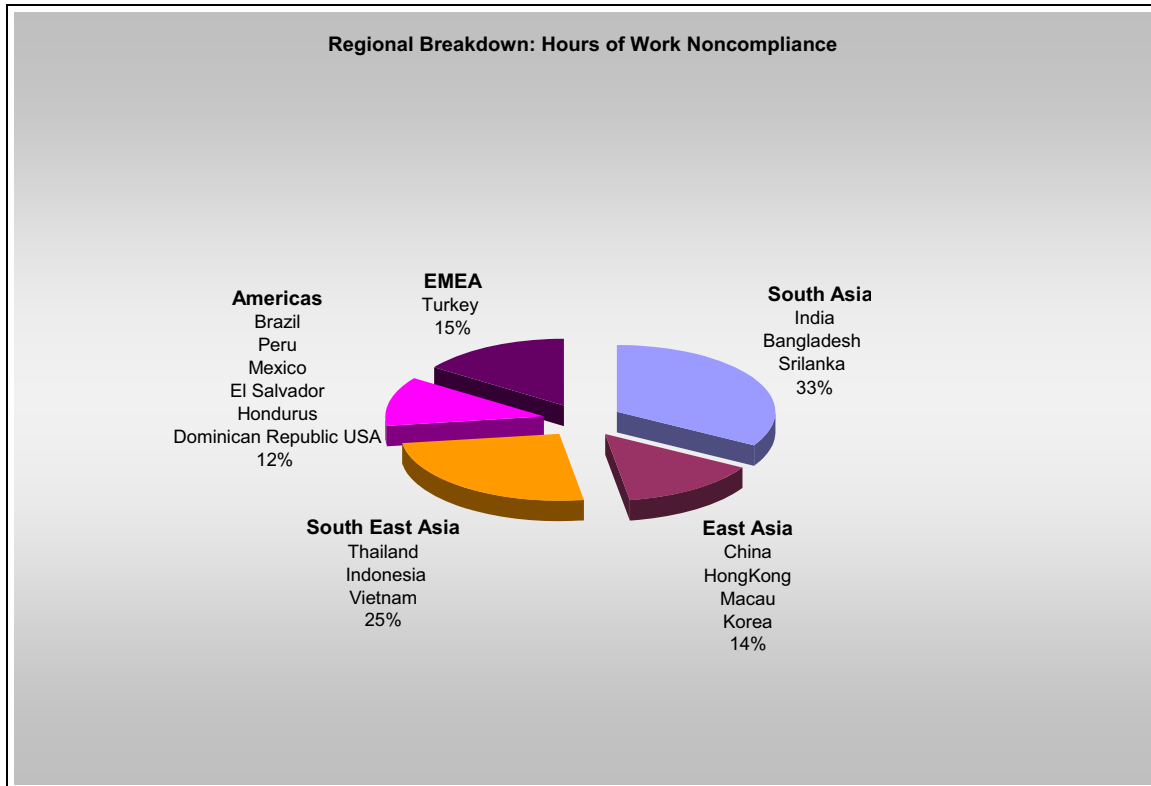


Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.

In 2004, 118 individual incidents related to noncompliance with the Hours of Work Code provision were identified by monitors. These incidents represented 7.4 percent of all noncompliance issues identified (Graph 9). [Click here](#) to access a breakdown of reported noncompliance issues in 2004 tallied according to the Hours of Work benchmarks.<sup>vi</sup> A third of the noncompliances with respect to this Code provision were found in South Asia, followed by 25 percent in South East Asia, and 15 percent in EMEA (Graph 10).

Sixty-nine percent of all noncompliance with this Code provision related to excessive overtime hours. In China, for example, findings of excessive overtime were not uncommon, even in factories where factory managers can acquire a waiver from the local labor bureau that permits them to employ workers for more than the legally-allowed overtime limits (a maximum of 36 hours of overtime per month). These waivers, which tend to be valid for six months, are often easy to obtain. In fact, based on investigations in China, the FLA believes there is a risk that waivers can be acquired through bribes or local connections with labor departments. The FLA does not consider local waivers to be valid if they do not comply with China's national standards; therefore, even if factories had obtained such permits, they were not considered to be in compliance with the Code if they went beyond national work hour restrictions.

Graph 10



*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

In working with companies to remediate Hours of Work noncompliance, the FLA has observed that the underlying causes of excessive overtime include pressures on workers to achieve high production quotas set by management, inflexible and very tight production deadlines, late delivery of materials, and strict and sometimes outdated domestic labor laws.

The FLA Hours of Work in China pilot project is based on the premise that excessive hours of work persist in Chinese factories because the underlying causes have not been clearly defined and addressed in compliance audits and corrective action programs. The project operates through assessment visits to the Chinese supply chain of FLA PCs in order to determine the underlying causes of excessive hours of work, design a training program capable of improving compliance with hours of work rules, and develop a pilot program to test the components of the training program. The project is currently in its pilot phase. For more information on FLA projects, please read the Special Projects chapter in this report.

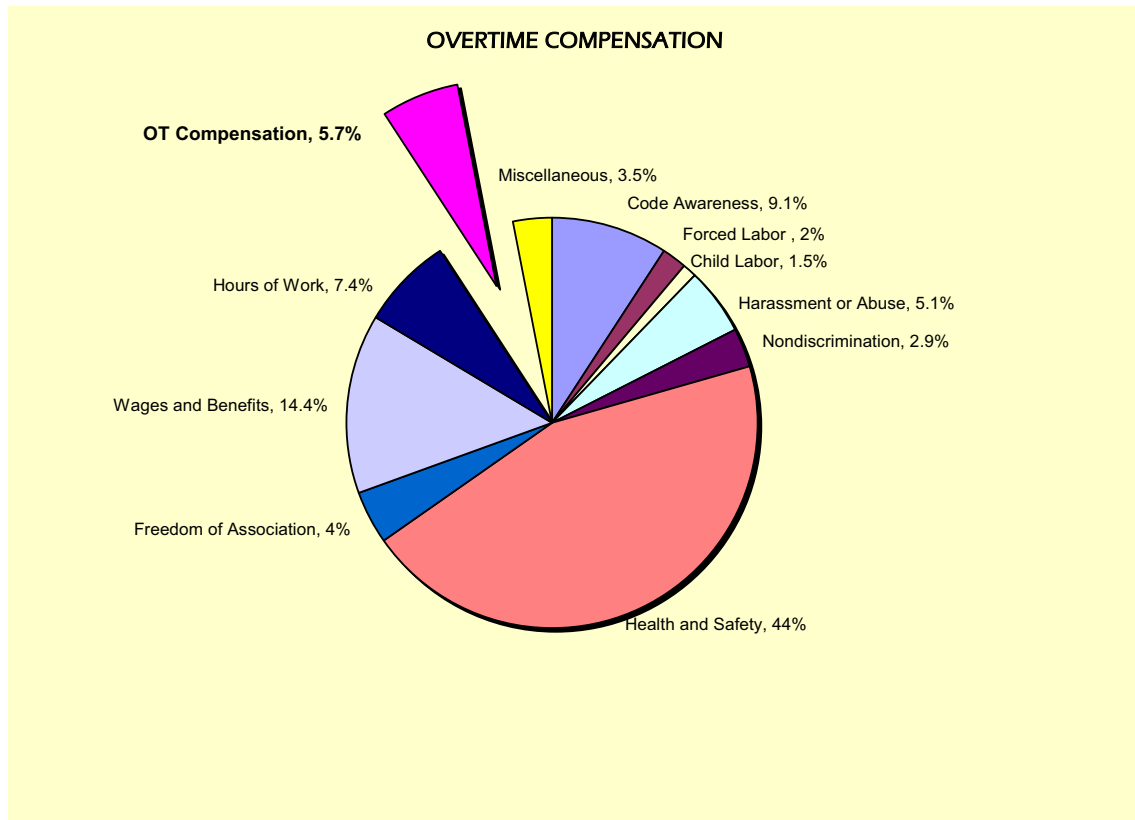
Please [click here](#) to visit the tracking charts to review how various companies have worked to remediate these and other issues.

## Overtime Compensation

**WORKPLACE CODE PROVISION: "In addition to their compensation for regular hours of work, employees will be compensated for overtime hours at such premium rate as is legally required in the country of manufacture or, in those countries where such laws will not exist, at a rate at least equal to their regular hourly compensation rate."**

[Click here](#) to access FLA Benchmarks for this provision.

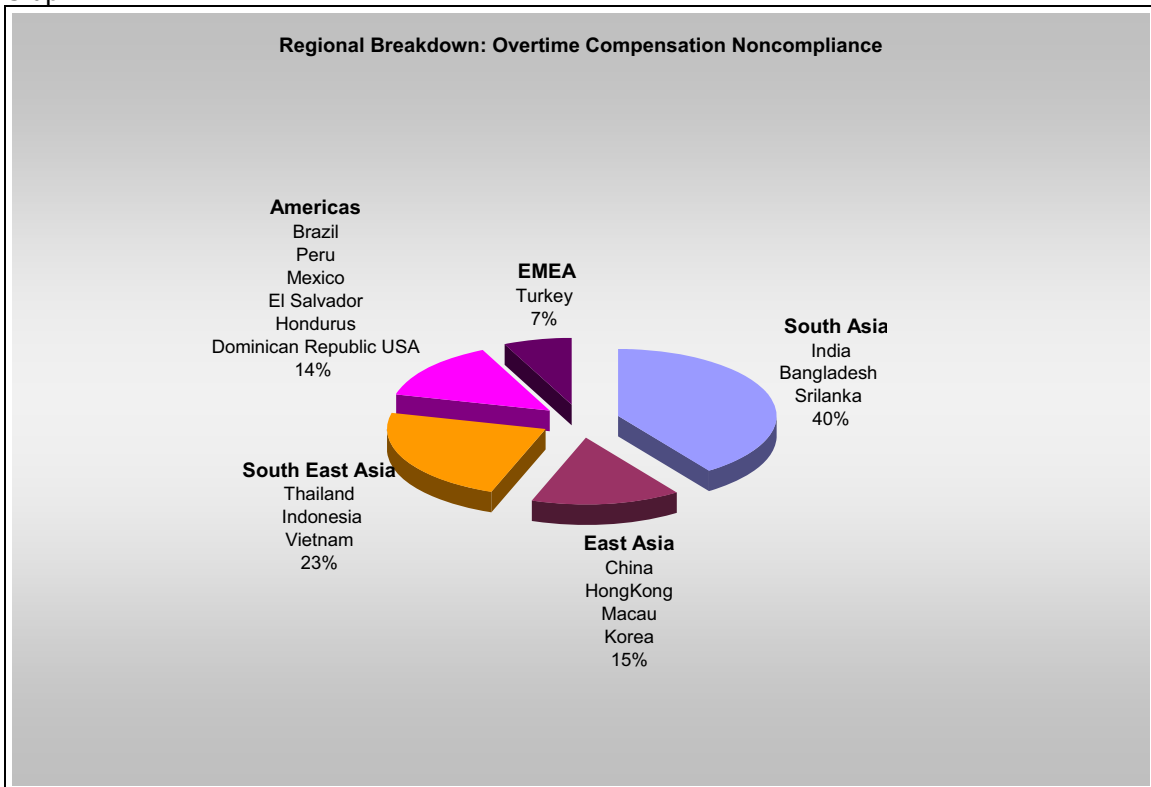
Graph 11: FLA 2004 IEM Findings – Overtime Compensation



In 2004, monitors reported 92 instances of noncompliance related to the Overtime Compensation Code provision, or 5.7 percent of total reported noncompliances (Graph 11). Forty percent of the noncompliances regarding this Code provision occurred in South Asia, 23 percent in South East Asia, and 15 percent in East Asia (Graph 12).

Noncompliance with this Code provision related primarily to unfair compensation for overtime hours (36 percent); lack of accurate recording of overtime hours (23 percent); incorrect use of meal and rest breaks (12 percent); and inadequate awareness among workers of overtime compensation (9 percent). [Click here](#) to access a breakdown of noncompliance issues in 2004 tallied according to the Wages and Benefits benchmarks.<sup>vii</sup>

Graph 12



*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

In some instances, unfair compensation of overtime hours resulted in workers not being paid at the overtime rates required by local law in different countries. In other cases, workers worked during one half of their lunch hour and were not compensated. Interviews demonstrated that workers faced unpleasant consequences for refusing to work overtime, and that overtime was the rule, rather than the exception for many workers.

In many cases, overtime compensation noncompliance was due to management's failure to provide complete records of overtime work. Monitors also observed that some supervisors were keeping separate books to record overtime, and did not want to disclose those records to monitors.

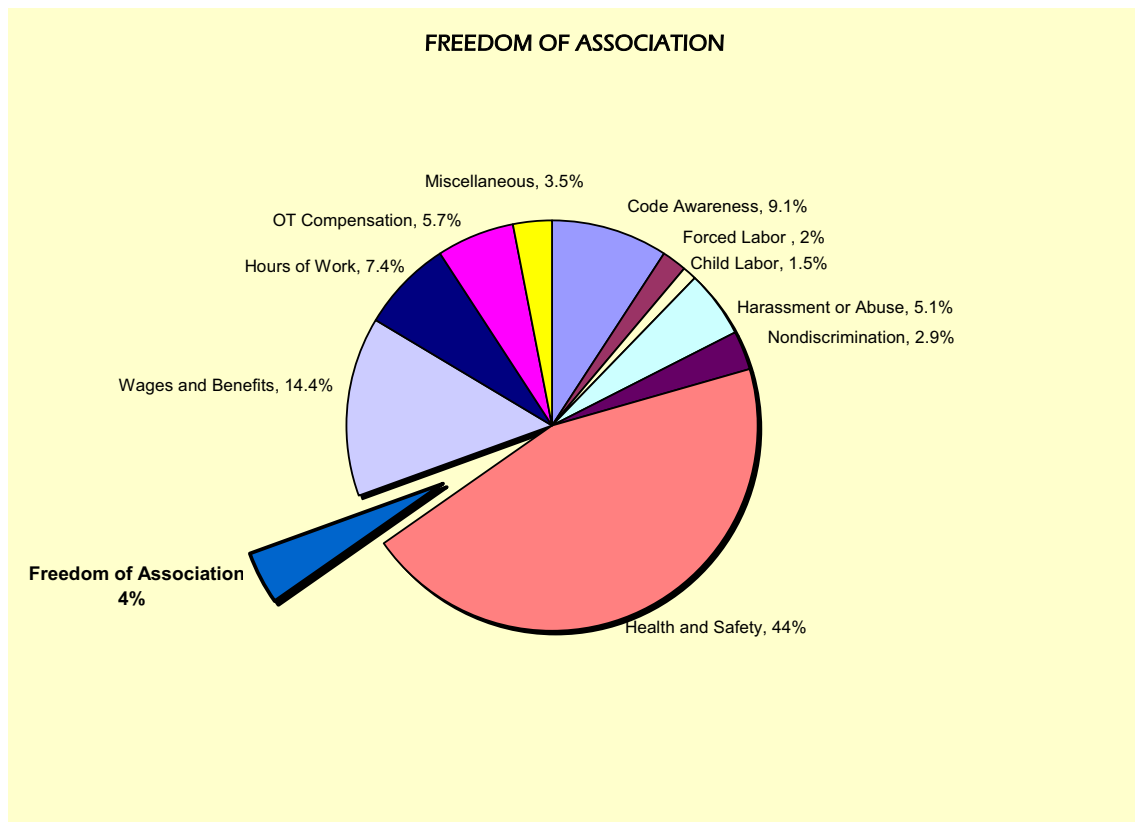
Please [click here](#) to visit the tracking charts to review how various companies have worked to remediate these and other issues.

## ***Freedom of Association and Collective Bargaining***

**WORKPLACE CODE PROVISION: “Employers will recognize and respect the right of employees to freedom of association and collective bargaining.”**

[Click here \(link to viii\)](#) to access FLA Benchmarks for this provision.

Graph 13: FLA 2004 IEM Findings – Freedom of Association and Collective Bargaining



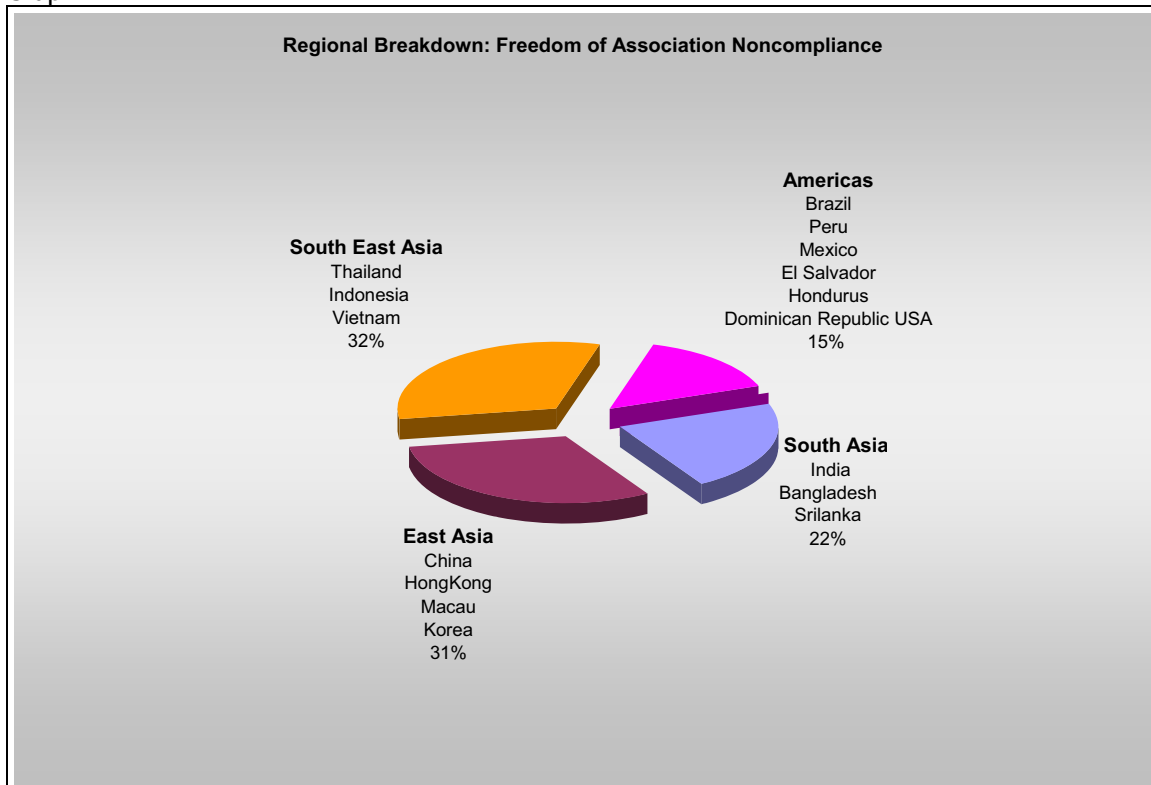
*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

In 2004, 4.0 percent of the total IEM noncompliance findings related to Freedom of Association (Graph 13). South East Asia and East Asia were the two regions with the largest percentage of noncompliances regarding the Code provision, with 32 and 31 percent, respectively of total noncompliances (Graph 14).

As discussed in the featured issue of the Year Two report [see the [Year Two Feature Issue: Freedom of Association](#)], Freedom of Association is an essential, yet challenging, Code provision to enforce due in part to the complex nature of this international standard, which accords workers the right to form or join organizations of their choosing. Because workers are given this choice, it is often difficult to identify and document the reasons for workers not forming or joining an organization and whether the absence of a union may constitute an occurrence of noncompliance. These complexities also make remediation challenging.



Graph 14



*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

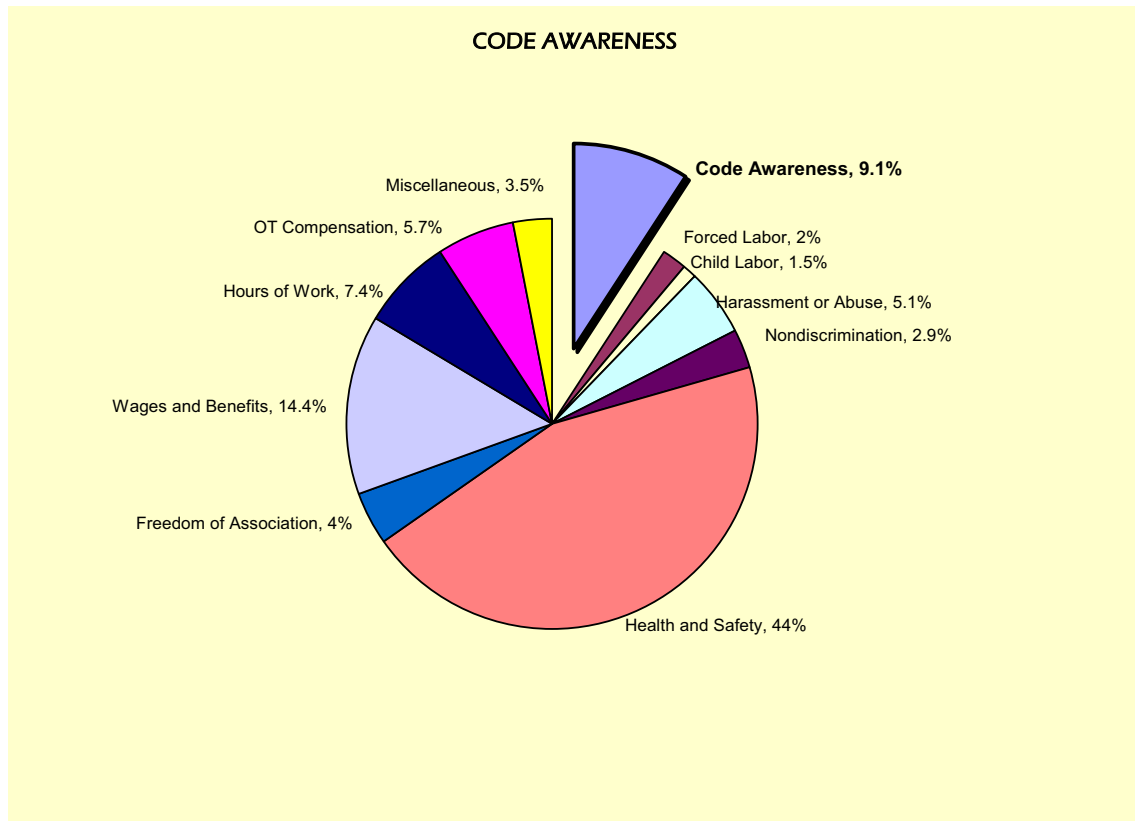
Of the 64 reported instances of Freedom of Association noncompliance identified by monitors, 28 or 44 percent were classified by monitors as restrictions on workers' right to establish and join organizations of their own choosing without previous authorization. In many cases, workers' rights were limited by local laws. For example, all factories in China were found to be in noncompliance with this Standard. FLA monitors also found cases where hiring practices discriminated against union-affiliated workers, and where management interfered in union activities or tried to prevent union development. [Click here](#) to access a breakdown of reported noncompliance issues in 2004 tallied according to the Freedom of Association benchmarks.<sup>ix</sup>

After finding widespread use of blacklists in the Central American region, the FLA launched the Central America Project (FLA CAMP), whose main objective is to counter discriminatory practices in the textile and apparel industry, including but not limited to union affiliation, in Honduras, Guatemala and El Salvador. In order to achieve this objective, the FLA has been working to promote a culture of compliance in the textile and apparel sector through the use of Guidelines of Good Practice to ensure equal opportunities and treatment in hiring, firing, disciplinary, and grievance policies and procedures. The Guidelines of Good Practice are tools for general managers and human resources personnel to be able to develop policies and procedures that ensure equal opportunities and treatment for workers for any area covered by international conventions, national legislation, and the FLA Code of Conduct. At the same time the project also provides capacity building and assistance to strengthen the labor administration through the training of labor inspectors and other civil servants working in the social protection departments of the Ministries. In addition to the elaboration of the Guidelines, the FLA CAMP has developed training material to accompany them in order to provide employers with practical examples that make them more understandable. For more information on the FLA CAMP, please read the Special Projects chapter in this report.

Please [click here](#) to visit the tracking charts to review how various companies have worked to remediate these and other issues.

## Code Awareness

Graph 15: FLA 2004 IEM Findings – Code Awareness

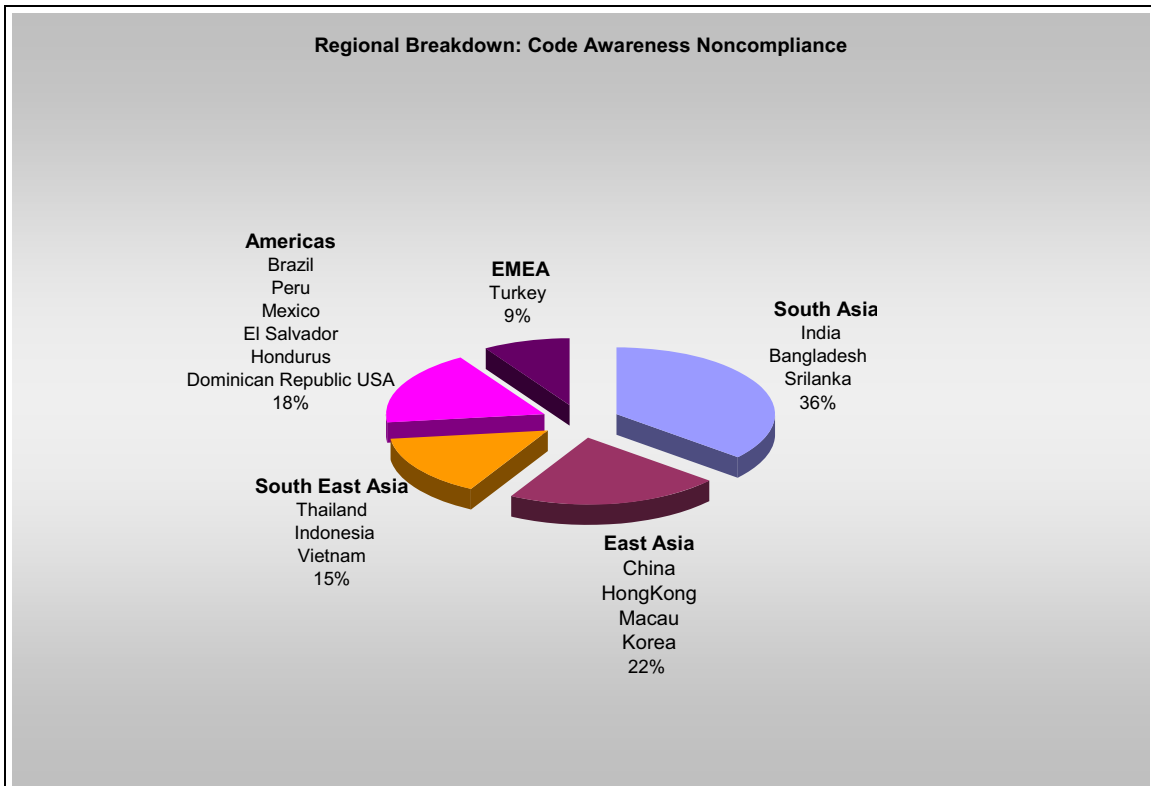


*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

In 2004, FLA-accredited monitors uncovered 145 instances of noncompliance with Code Awareness, roughly 9.1 percent of all reported noncompliance issues (Graph 15). The regions with the highest incidence of noncompliances in this area were South Asia (36 percent of noncompliances), East Asia (22 percent), and the Americas (18 percent) (Graph 16).

Code Awareness is unique in that it is not a Code provision itself, but rather is one of the Charter Obligations that all companies must strive to achieve. Workers' awareness of Code provisions is essential for their effective implementation on a daily basis, and FLA companies are obligated to ensure workers' and managers' awareness of the Code. Factories' fulfillment of this obligation is measured by three benchmarks: the posting of a Code of Conduct that makes the standards clear; worker and management awareness of the Code; and a mechanism in the factory for reporting noncompliance with the Code. [Click here](#) to access a breakdown of reported noncompliance issues in 2004 tallied according to Code Awareness.<sup>x</sup>

Graph 16



*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

Overall, 43 percent of all noncompliance issues raised dealt with lack of awareness about the code from workers and managers, and 35 percent with the lack of a mechanism by which workers can report noncompliance issues; FLA companies are required to provide workers with a channel through which they can communicate grievances to brand representatives. Another 17 percent of noncompliance instances were related to failure in posting the code and establishing clear standards.

Although this is still an area for improvement, some companies have worked to make code awareness the obligation that provides a channel for workers to communicate grievances in innovative ways. While most have installed suggestion boxes designed for discreet submission of grievances, some have also provided workers with prepaid postcards addressed to company representatives. Others have experimented with free hotline numbers, and many post the cell phone and office numbers of local human rights compliance staff in the factories. Still others have worked with local organizations to collect and address grievances.

It is worth noting that as companies work to improve local compliance structures, some have worked to train workers and management to install or strengthen internal factory grievance systems. The hope is that problems can be resolved more quickly and effectively at the factory level, that management and workers strengthen their trust and relationships, and that contacting brands concerning noncompliance can become a last resort.

As stated above, worker and management Code Awareness was also a challenging area, representing 17 percent of all reported noncompliance issues in this section. Despite company Code postings in local languages, and requirements for management to regularly communicate the standards verbally, Code Awareness levels among workers are low in many factories. This is often exacerbated by high rates of worker turnover. Regular training sessions about the Code and local labor laws and the provision of worker handbooks are suggested remediation approaches for these issues. The FLA has observed several instances of such company efforts

improving Code awareness. Programs focused on involving local NGOs, unions, or worker representatives in administering worker education have proven to be especially effective.

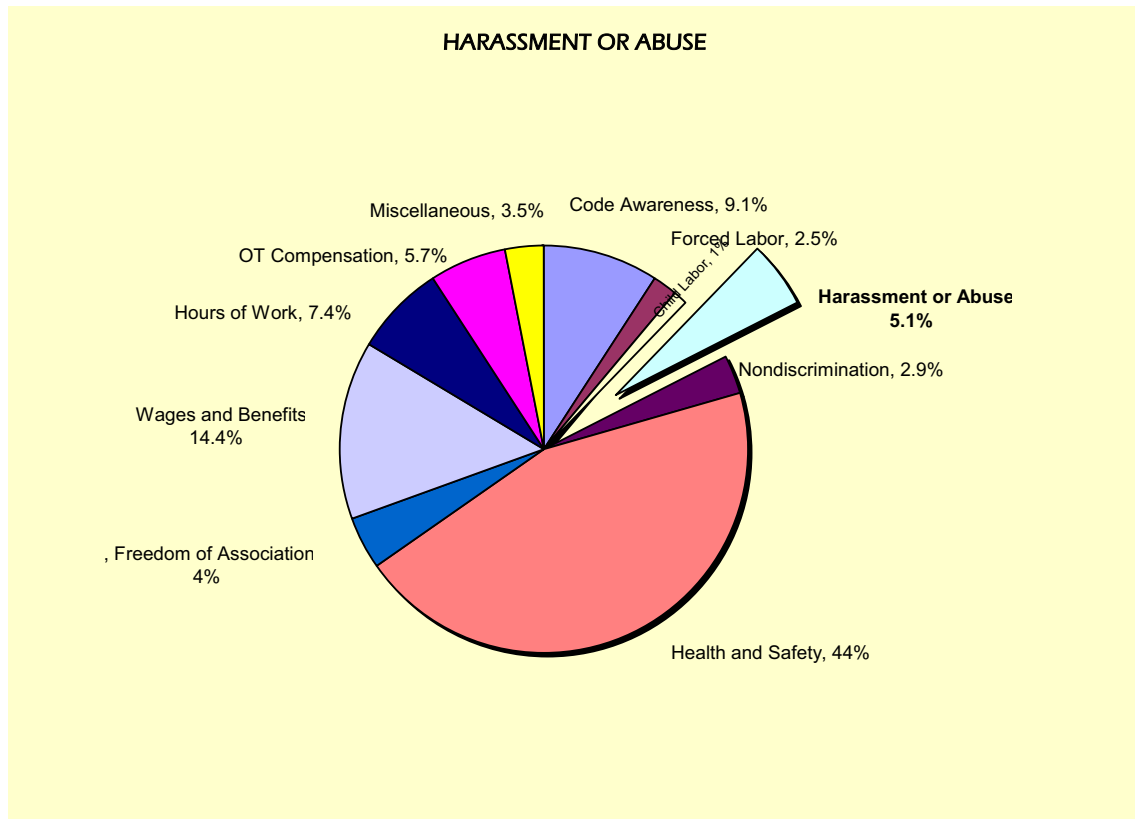
Please [click here](#) to visit the tracking charts to review how various companies have worked to remediate these and other issues.

## Harassment or Abuse

**WORKPLACE CODE PROVISION: "Every employee will be treated with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment or abuse."**

[Click here](#)<sup>xi</sup> to access FLA Benchmarks for this provision.

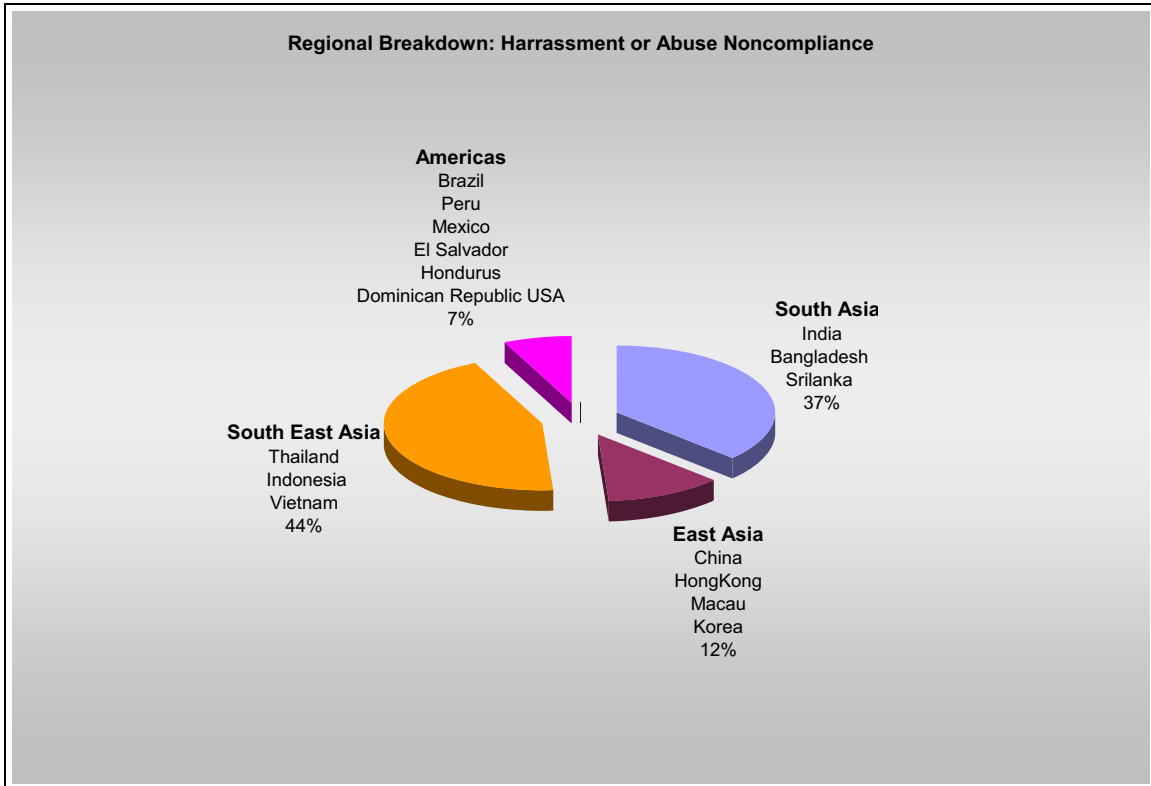
Graph 17: FLA 2004 IEM Findings – Harassment or Abuse



*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

Noncompliance with the Code provision on Harassment or Abuse constituted 81 cases, or 5.1 percent, of all reported noncompliance in 2004 (Graph 17). South East Asia accounted for 44 percent of noncompliances with this Code element, followed by South Asia (37 percent) (Graph 18).

[Click here](#) to access a breakdown noncompliance issues in 2004 tallied according to the *Harassment or Abuse* benchmarks.<sup>xii</sup>



*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

Nineteen percent of Harassment or Abuse cases in 2004 involved inadequate training of management in disciplinary practices and 13 percent involved verbal abuse of workers by supervisors. Interviews have consistently revealed, however, that it is likely that many more verbal abuse cases go unreported in factories because workers are often intimidated to report verbal abuse to managers for fear of losing their jobs.

Eleven percent of reported noncompliance with this Code provision related to workers being subjected to monetary fines or penalties for arriving late at the factory, taking a day off without prior notice, or losing sewing equipment. Sexual harassment was reported in three factories in 2004. This low incidence of sexual harassment findings seems to reflect underreporting of an issue that can be difficult for workers to communicate and monitors to detect.

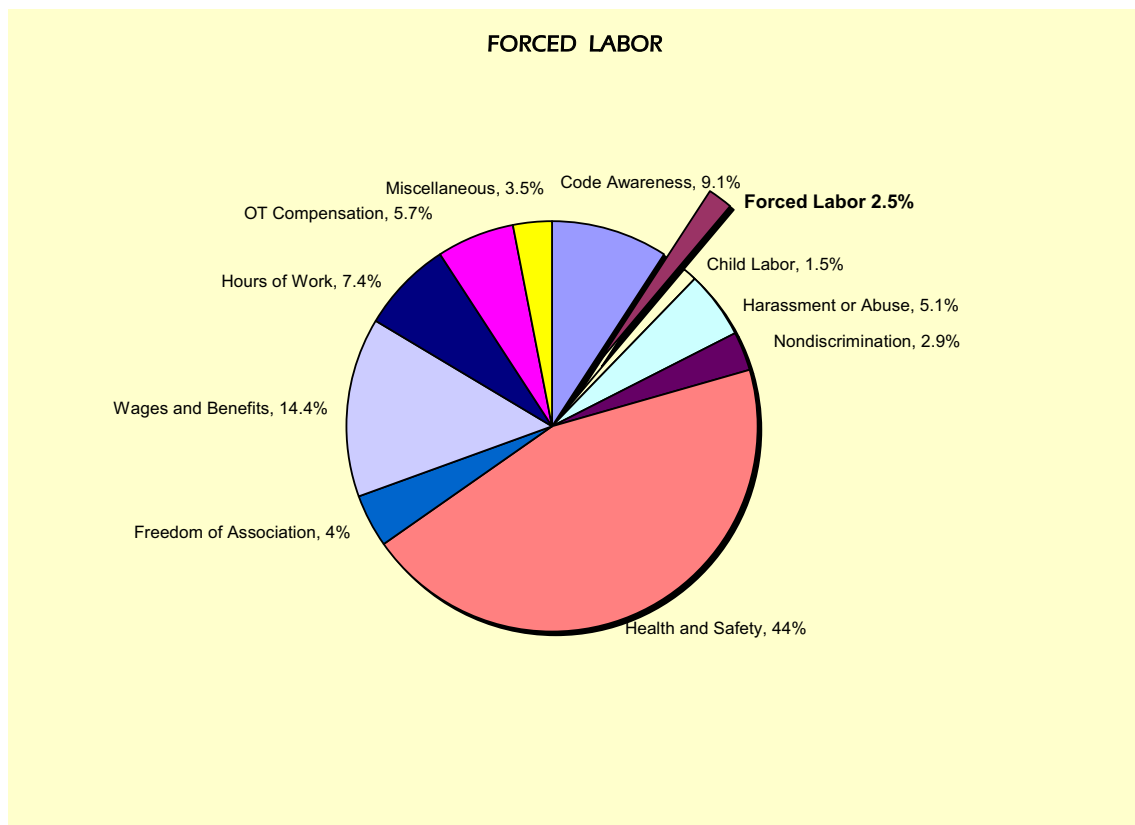
Please [click here](#) to visit the tracking charts to review how various companies have worked to remediate these and other issues.

## ***Forced Labor:***

**WORKPLACE CODE PROVISION: "There will not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise."**

[Click here<sup>xiii</sup>](#) to access FLA Benchmarks for this provision.

Graph 19: FLA 2004 IEM Findings – Forced Labor



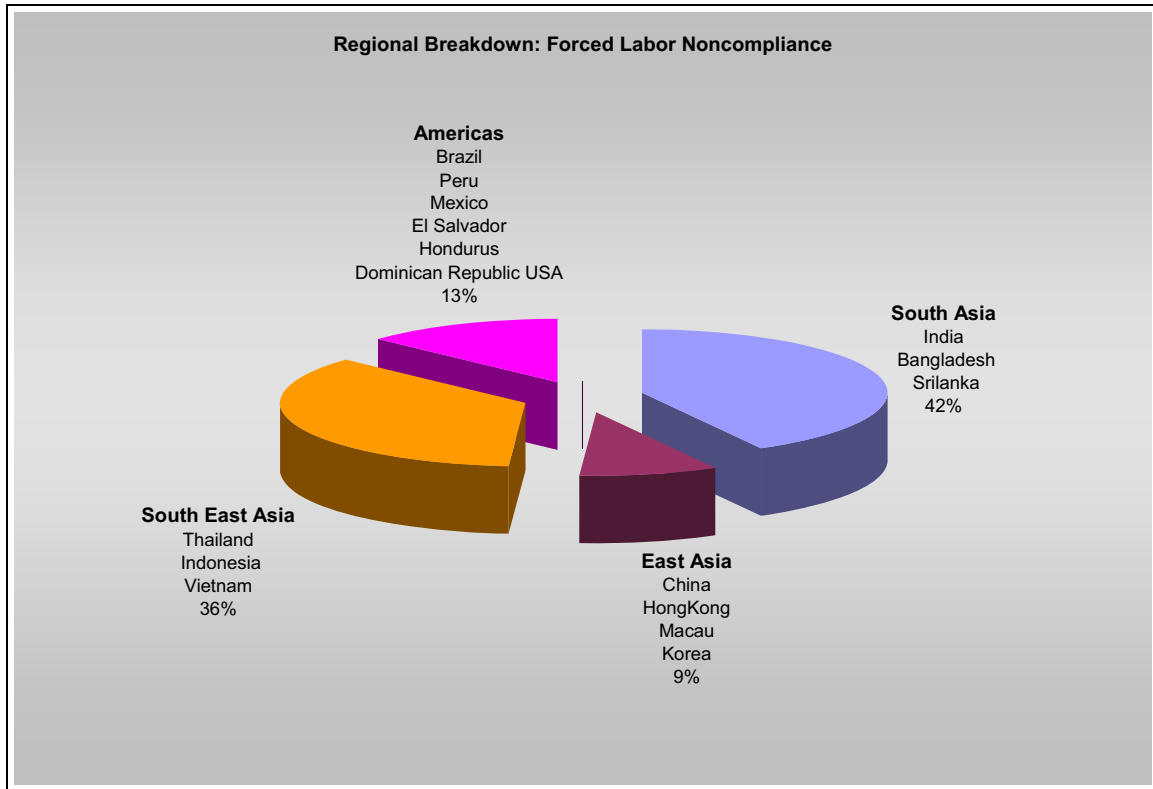
*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

Forced Labor made up 2.5 percent of all reported noncompliance issues in 2004 (Graph 19). South Asia was responsible for the largest share of noncompliances with this Code provision (42 percent), followed by South East Asia (36 percent) (Graph 20). [Click here](#) to access a breakdown of reported noncompliance issues in 2004 tallied according to the Forced Labor benchmarks.<sup>xiv</sup>

It is important to note that the FLA Benchmarks for the Forced Labor Code Provision are not limited to "forced labor" or "bonded labor." ([Click here](#) to access the FLA Forced Labor Benchmarks. – [go to endnote xiv](#)) In fact, none of the factories that were independently monitored in 2004 showed evidence of forced or bonded labor. The bulk of the noncompliance findings for this provision related to personnel or recordkeeping practices that did not comply with FLA standards. Forty percent of the noncompliances regarding the code provision related to inadequate hiring and employment records to demonstrate and verify compliance and 10 percent related to unclear or undocumented employment terms. In other cases, workers were hired as daily workers or through a third party contractor, which enabled factories to avoid providing

various benefits and protections that full-time workers are entitled to by law. Five percent of the noncompliances related to Forced Labor were linked to instances of factories withholding workers' identification cards or other documentation, which limited workers' freedom of movement.

Graph 20



*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

Please [click here](#) to visit the tracking charts to review how various companies have worked to remediate these and other issues.

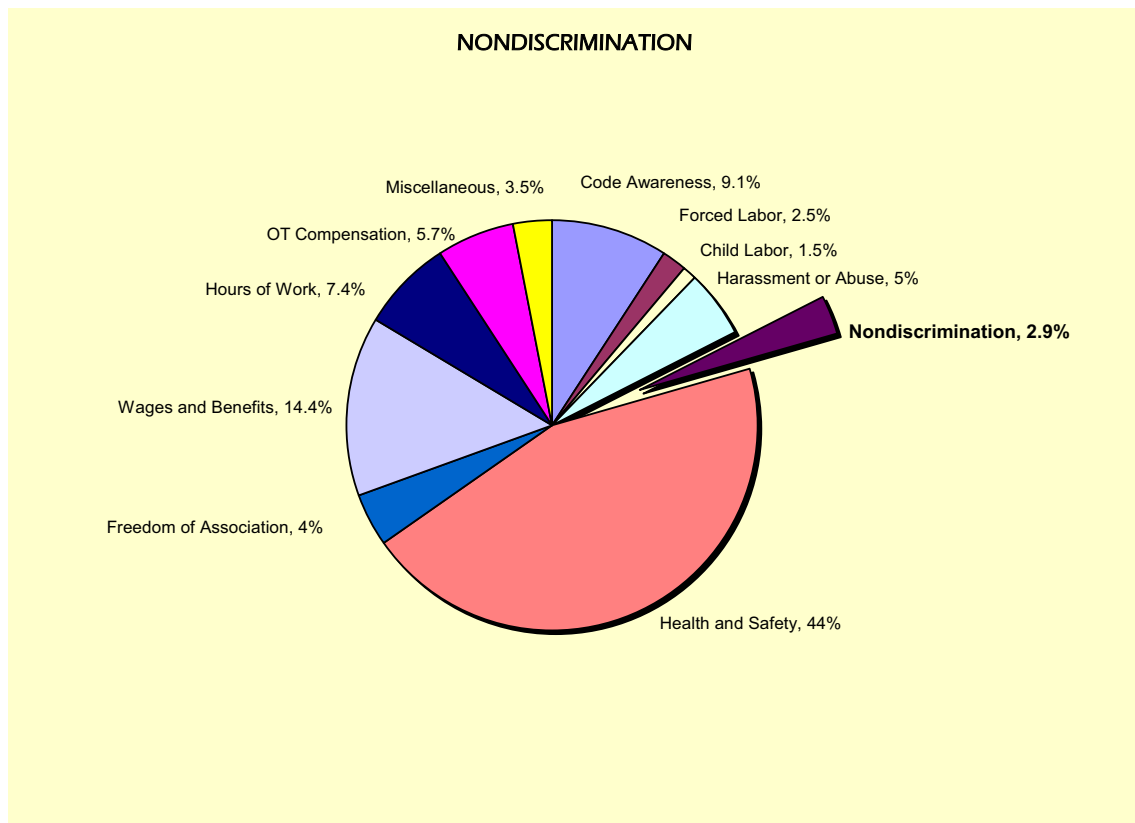


## ***Nondiscrimination***

**WORKPLACE CODE PROVISION: “No person will be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.”**

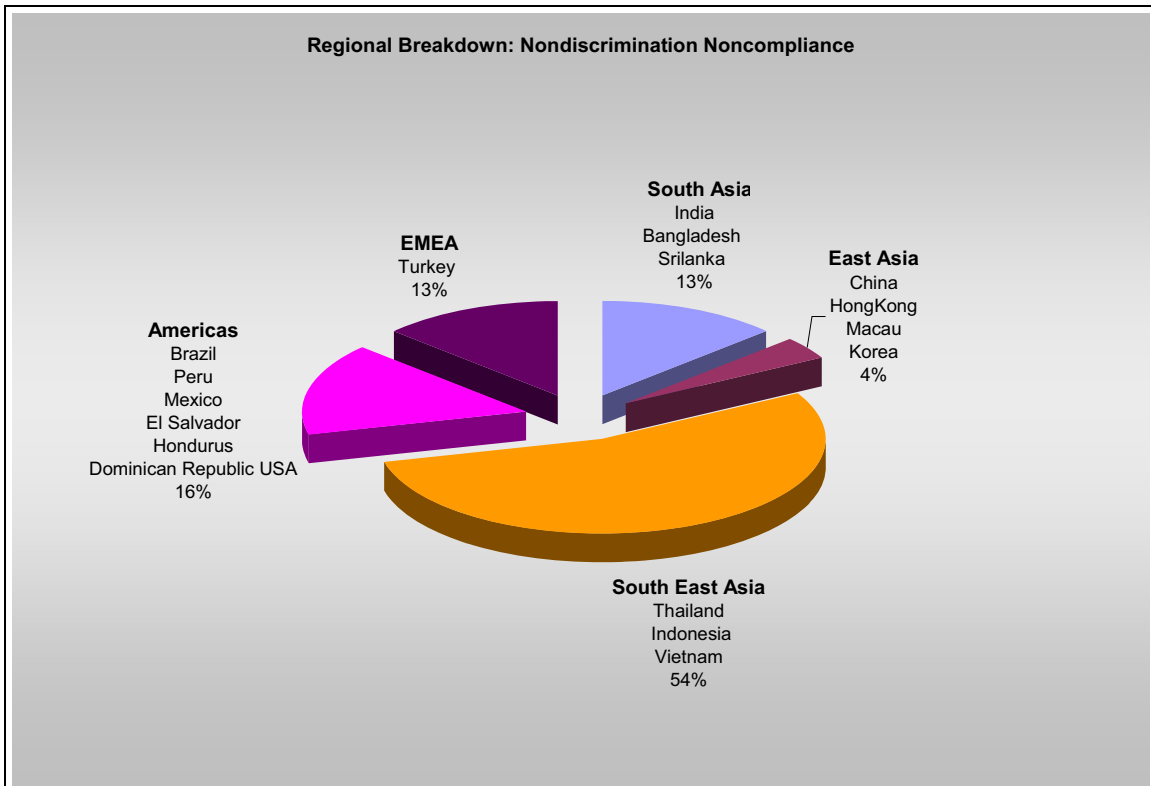
[Click here<sup>xv</sup>](#) to access FLA Benchmarks for this provision.

Graph 21: FLA 2004 IEM Findings – Nondiscrimination



In 2004, 2.9 percent of the total noncompliance issues reported related to the FLA’s Nondiscrimination provision (Graph 21). South East Asia accounted for over half of instances of noncompliance with the Code element (54 percent), followed by the Americas with 16 percent and South Asia and EMEA with 13 percent (Graph 22). [Click here](#) to access a breakdown of reported noncompliance issues in 2004 tallied according to the Nondiscrimination benchmarks.<sup>xvi</sup>

Graph 22



*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

The bulk of instances of noncompliance with the Nondiscrimination Code provision related to hiring practices, with 51 percent of reported noncompliances. Issues related to pregnancy benchmarks amounted to 17% of noncompliances, with pregnancy testing accounting for 15 percent of all reported nondiscrimination cases and pregnancy discrimination for 2 percent. There were no reports of dismissal due to pregnancy, improper accommodation for pregnancy, pregnancy risks, or reproductive health violations in 2004. Further explanation of these categories can be reviewed in the [FLA Benchmarks](#).

The FLA main objective of the Central America Project (FLA CAMP) is to counter discriminatory practices in the textile and apparel industry in Honduras, Guatemala and El Salvador. In the context of this project, the FLA has developed Guidelines of Good Practice to ensure equal opportunities and treatment in hiring, firing, disciplinary, and grievance policies and procedures. In addition to developing the guidelines, project staff have trained managers, human resources directors, and ministry inspectors on policies and procedures that ensure equal opportunities of treatment for workers. For more information on the FLA CAMP, please read the Special Projects chapter in this report.

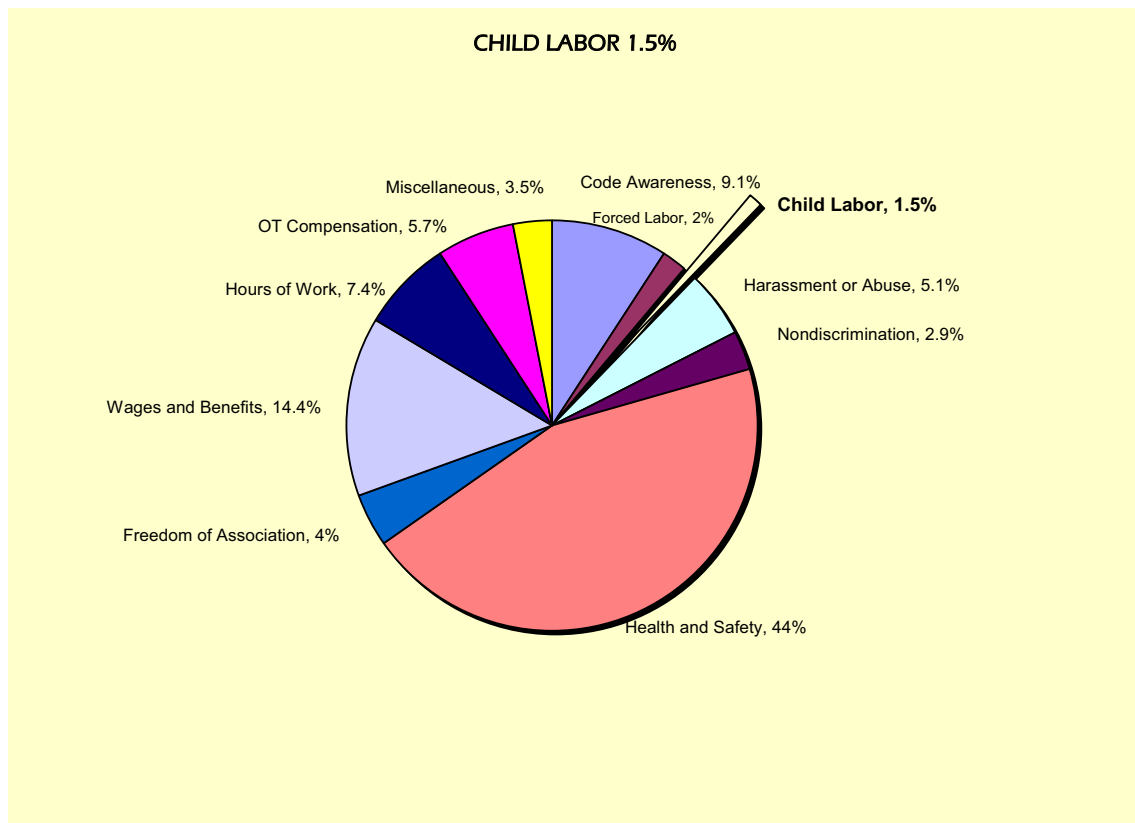
Please [click here](#) to visit the tracking charts to review how various companies have worked to remediate these and other issues.

## Child Labor

**WORKPLACE CODE PROVISION: "No person will be employed at an age younger than 15 (or 14 where the law of the country of manufacture allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15."**

[Click here<sup>xvii</sup>](#) to access FLA Benchmarks for this provision.

Graph 23: FLA 2004 IEM Findings – Child Labor



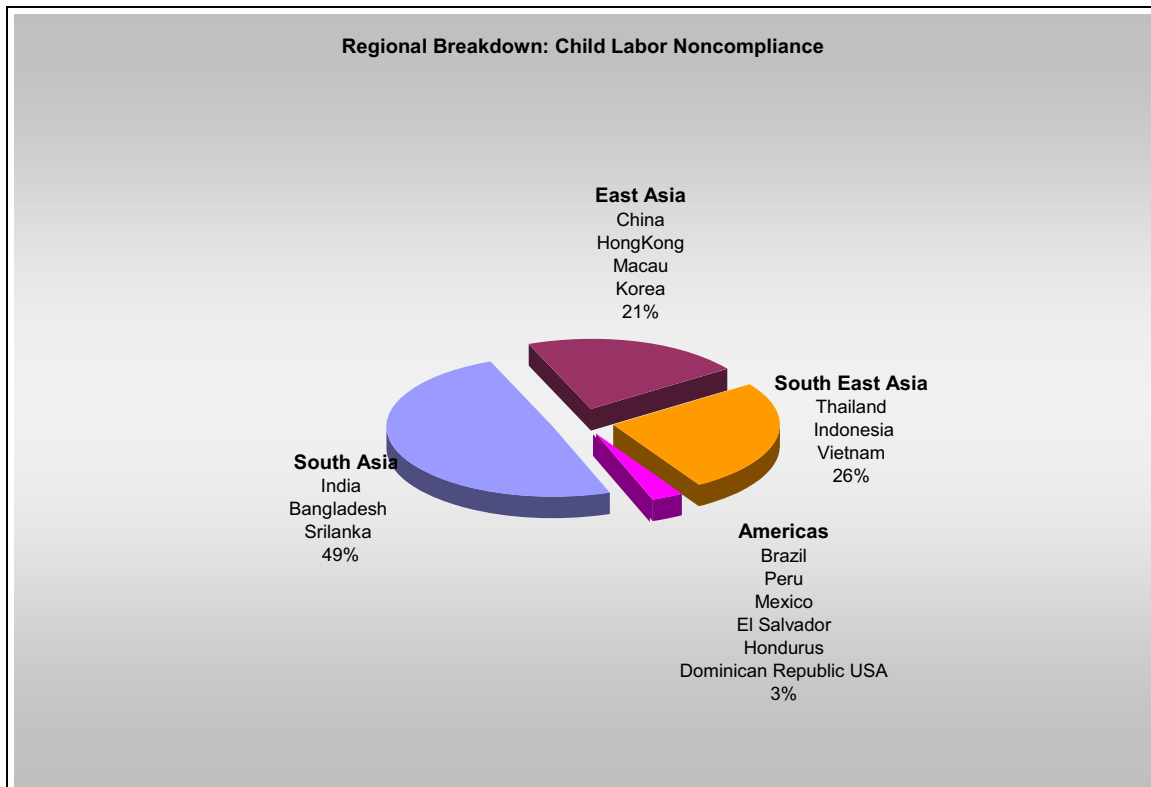
*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

Although FLA-accredited monitors uncovered 24 instances of noncompliance with the FLA Child Labor Code provision, or 1.5 percent of total noncompliances, there were no reports of children actually working in the factories that were audited (Graph 23). Nearly half of the noncompliances with this Code provision were recorded in South Asia (49 percent), followed by South East Asia (26 percent) and East Asia (21 percent) (Graph 24). [Click here](#) to access a breakdown of reported noncompliance issues in 2004 tallied according to the Child Labor benchmarks.<sup>xviii</sup>

About one quarter of the instances of noncompliance with the Child Labor Code provision identified in 2004 had to do with incomplete or fraudulent age documentation and a similar share had to do with factories not addressing legal provisions applicable to juvenile workers who have reached the minimum legal working age as defined by local law, but due to their age are limited in the kind of work that they are allowed to do. Working with dangerous chemicals or using heavy or dangerous machinery are among the kinds of work that these workers are restricted

from doing in many countries. In the reported instances of noncompliance, juvenile workers were engaged in restricted work, such as dying cloth or cutting. In these cases, the companies worked with factories to ensure that the legal limitations for juvenile work were understood, and that necessary arrangements were made for these workers.

Graph 24

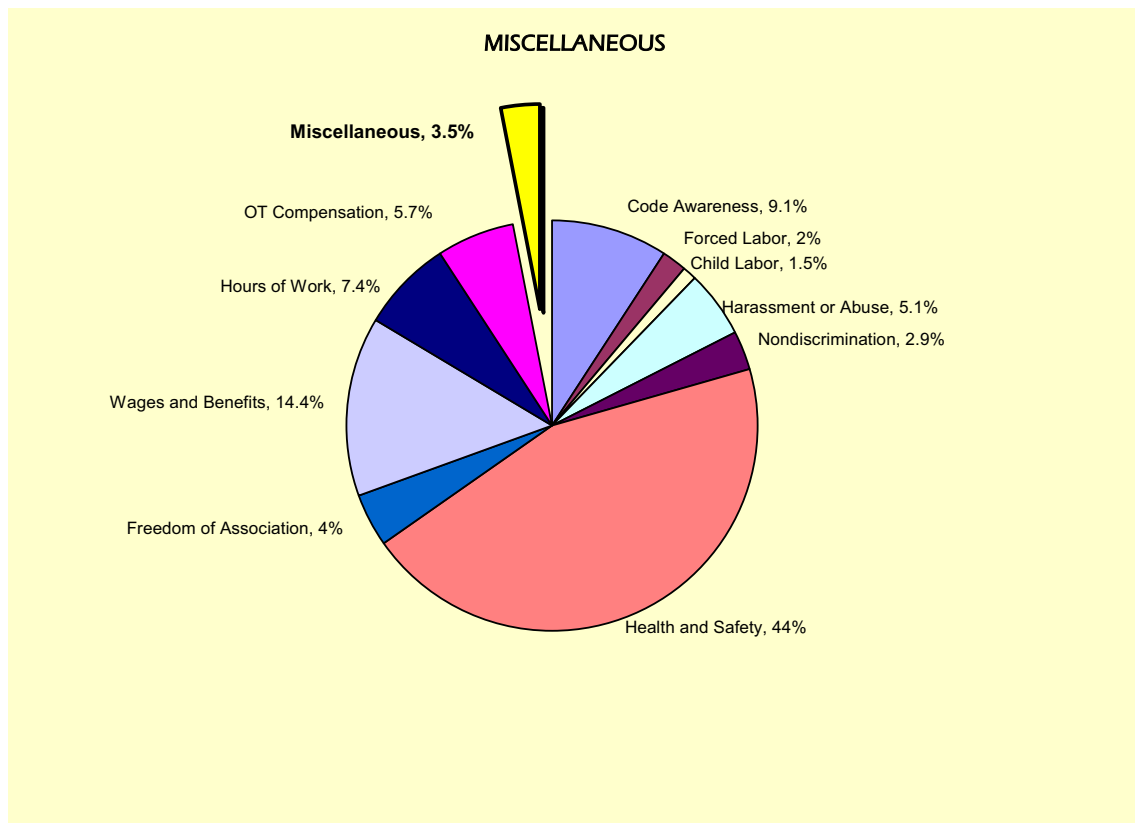


*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

Please [click here](#) to visit the tracking charts to review how various companies have worked to remediate these and other issues.

## Miscellaneous

Graph 25: FLA 2004 IEM Findings – Miscellaneous



Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.

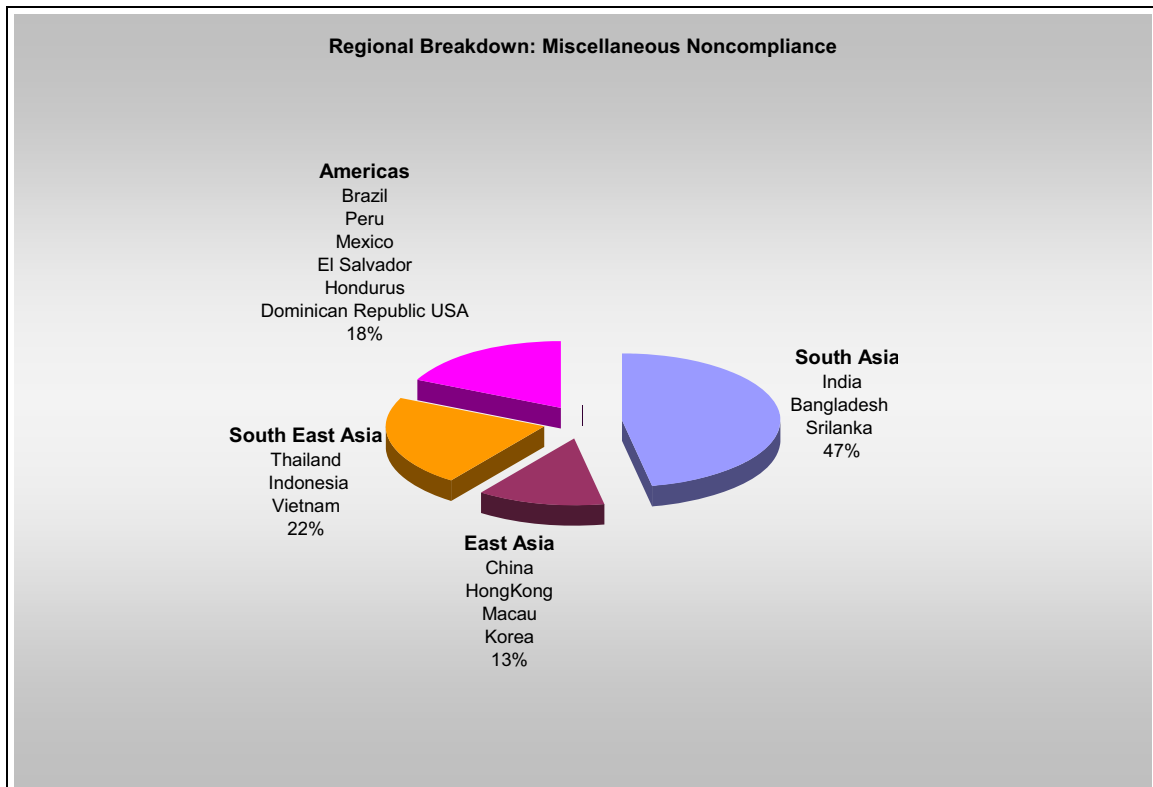
The Miscellaneous category captures issues such as legal or contractual noncompliances that were observed by FLA-accredited monitors that are not currently included in the FLA Code or Benchmarks but nevertheless are inconsistent with applicable national and local laws or with FLA participating company requirements. Miscellaneous issues accounted for 3.5 percent of the total number of noncompliances (Graph 24); nearly one-half of the noncompliances in this category (47 percent) were recorded in South Asia, followed by 22 percent in South East Asia and 18 percent in the Americas (Graph 25). [Click here](#) to access a breakdown of reported miscellaneous noncompliance issues in 2004.<sup>xix</sup>

The majority of the instances of noncompliance in the Miscellaneous category (64 percent) fell under the rubric of Miscellaneous Other and typically referred to inconsistencies with national labor law or practice identified by the monitors. They included improper documentation or Human Resources processes in the factory, lack of welfare officers in countries where it is required by law, unsafe transportation for workers, failure to provide worship space for workers, improper documentation for security guards, and maintenance and canteen workers, and exceeding the number of workers that are licensed to be employed through contractors.

Thirty-two percent of noncompliances in this category referred to illegal subcontracting, that is, subcontracting to contractors involved in production processes (e.g., embroidery, washing, dyeing) that had not been approved by the FLA participating company operating in the factory. In these cases, factories were instructed by the participating company to stop subcontracting to unapproved facilities immediately. In most cases, the subcontractors were subsequently approved by the company after labor conditions at the subcontracted factory had been

investigated. Four percent of noncompliances referred to possible situations of home-based work where the working conditions could not be monitored by the participating company.

Graph 32



*Please note that these findings represent the 1,603 incidences of separate noncompliance issues as found in 88 of the 94 factories subjected to IEMs in 2004.*

Please [click here](#) to visit the tracking charts to review how various companies have worked to remediate these and other issues.

---

## **i HARASSMENT OR ABUSE**

**WORKPLACE CODE PROVISION: Every employee will be treated with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment or abuse.**

### **Benchmarks**

- Employers will utilize progressive discipline, e.g., escalating discipline using steps such as verbal warning, written warning, suspension, termination. Any exceptions to this rule, e.g., immediate termination for theft or assault, shall be in writing and clearly communicated to workers.
- Employers will not use physical discipline, including slaps, pushes or other forms of physical contact (or threats of physical discipline).
- Employers shall not offer preferential work assignments or other preferential treatment of any kind in actual or implied exchange for a sexual relationship, nor subject employees to prejudicial treatment of any kind in retaliation for refused sexual advances.
- Employers will utilize consistent written disciplinary practices that are applied fairly among all workers.
- Employers will provide training to managers and supervisors in appropriate disciplinary practices.
- Management will discipline (could include combinations of counseling, warnings, demotions, and termination) anyone (including managers or fellow workers) who engages in any physical, sexual, psychological or verbal harassment or abuse.
- Employers will maintain written records of disciplinary actions taken.
- Employers will prohibit screaming, threatening, or demeaning verbal language.
- Security practices will be gender-appropriate and non-intrusive.
- Access to food, water, toilets, medical care or health clinics or other basic necessities will not be used as either reward or punishment.
- Employers will not unreasonably restrain freedom of movement of workers, including movement in canteen, during breaks, using toilets, accessing water, or to access necessary medical attention.
- Employers will not use monetary fines and penalties for poor performance.

## **ii HEALTH AND SAFETY**

**A. WORKPLACE CODE PROVISION: Employers will provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities.**

### **B. Benchmarks**

- 
- Employer will comply with applicable health and safety laws and regulations. In any case where laws and Code of conduct are contradictory, the higher standards will apply. The factory will possess all legally required permits.
  - All documents required to be available to workers and management by applicable laws (such as policies, MSDS, etc.) shall be made available in the prescribed manner and in the local language or language spoken by majority of the workers if different from the local language.
  - All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, unblocked aisles/exits, employee education, evacuation procedures, etc.) shall be complied with and workers shall be trained in proper safety, first aid, and evacuation procedures.
  - All safety and medical equipment (such as fire fighting equipment, first aid kits, etc.) shall be in place, maintained as prescribed and accessible to the employees.
  - Workers shall wear appropriate protective equipment (such as gloves, eye protection, hearing protection, respiratory protection, etc.) to prevent unsafe exposure (such as inhalation or contact with solvent vapors, noise, dust, etc.) to hazardous elements including medical waste.
  - All chemicals and hazardous substances should be properly labeled and stored in accordance with applicable laws. Workers should receive training, appropriate to their job responsibilities, in the safe use of chemicals and other hazardous substances.
  - To prevent unsafe exposure to hazardous chemicals, appropriate accommodations shall be made for pregnant women and minors as required by applicable laws in a manner that does not unreasonably disadvantage employees.
  - All ventilation, plumbing, electrical, and lighting services shall be provided and maintained to conform to applicable laws and prevent hazardous conditions to employees in the facility.
  - All safety and accident reports shall be maintained for at least one year, or longer if required by law.
  - All production machinery and equipment shall be maintained, properly guarded, and operated in a safe manner.
  - All facilities including factory buildings, toilets, canteens, kitchens, and clinics, shall be kept clean and safe and be in compliance with applicable laws.
  - All food preparation shall be prepared, stored, and served in a sanitary manner in accordance with applicable laws. Safe drinking water should be available in each building.
  - All dormitories shall be kept secure, clean and have safety provisions (such as fire extinguishers, first aid kits, unobstructed emergency exits, emergency lighting, etc.). Emergency evacuation drills should also be conducted at least annually.
  - Workers should be involved in planning for safety, including through worker safety committees.



**Table 2: Health and Safety Noncompliance in 2004 – By Benchmark**

<b>Health and Safety Benchmarks</b>	<b>Number of Noncompliance Issues</b>	<b>Percent of Total</b>
Fire Safety Health and Safety legal compliance	51	7
Document Maintenance/ Accessibility	27	4
Postings and Evacuation Procedure	157	22
Safety Equipment	87	12
PPE	75	11
Chemical Management	52	7
Chemical Management for Pregnant women and juvenile workers	1	0
Ventilation/ Electrical/ facility maintenance	71	10
Accident Record Maintenance	8	1
Machinery Maintenance	35	5
Sanitation in Facilities	45	6
Sanitation in Dining Area	11	2
Sanitation in Dormitories	18	3
Worker Participation	16	2
Health & Safety Other	51	7
<b>Total</b>	<b>705</b>	<b>100%</b>

#### iv **WAGES AND BENEFITS, HOURS OF WORK AND OVERTIME COMPENSATION**

##### **A. WORKPLACE CODE PROVISIONS:**

**WAGES AND BENEFITS:** Employers recognize that wages are essential to meeting employees' basic needs. Employers will pay employees, as a base, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and will provide legally mandated benefits.

**HOURS OF WORK:** Except in extraordinary business circumstances, employees will (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country will not limit the hours of work, the regular work week in such country plus 12 hours overtime; and (ii) be entitled to at least one day off in every seven day period.

**OVERTIME COMPENSATION:** In addition to their compensation for regular hours of work, employees will be compensated for overtime hours at such premium rate as is legally required in the country of manufacture or, in those countries where such laws will not exist, at a rate at least equal to their regular hourly compensation rate.

##### **B. Benchmarks**

- Employers will pay workers the legal minimum wage or the prevailing industry wage, whichever is higher.
- Where training wages are legally allowed, no worker will be paid a training wage for more than three months cumulatively.

- 
- Employers will communicate orally and in writing to all employees in the language of the worker the wages, incentive systems, benefits and bonuses to which all workers are entitled in that company and under the applicable law.
  - All notices that are legally required to be posted in the factory work areas will be posted. All legally required documents, such as copies of legal Code or law, will be kept at the factory and available for inspection.
  - In general, workers will have access to understandable information about their wages and benefits, and will not express dissatisfaction with their ability to get information.
  - All workers have a right to use or not to use employer provided services, such as housing or meals.
  - Deductions for services to employees will not exceed the cost of the service to the employer. If questioned, employers will demonstrate the reasonableness of these charges.
  - Accurate and reliable payroll reporting, including pay stubs will be provided.
  - Employers will provide workers a pay statement each pay period, which will show earned wages, regular and overtime pay, bonuses and all deductions.
  - Time worked by all employees, regardless of compensation system, will be documented by time cards or other accurate and reliable recording systems such as electronic swipe cards.
  - All compensation records will be maintained accurately and should be acknowledged by the employee as accurate.
  - Employers will provide all legally mandated benefits to all eligible workers.
  - Legally mandated bonuses (e.g., 13<sup>th</sup> month payments and severance payments will be paid in full and in a timely manner).
  - Legally mandated benefits will be provided or paid in full within legally defined time periods.
  - All legally mandated deductions for taxes, social insurance, or other purposes will be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc. The employer will not hold any of these funds over from one pay period to the other unless the law specifies that deposits are to be made less frequently than pay periods (e.g., monthly deposits, weekly pay). If the law does not specify, then deposits will be made before the next pay period in all cases.
  - All voluntary deductions (savings clubs, loan payments, etc.) will be credited to proper accounts and funds will not be held illegally or inappropriately by employers.
  - Workers will be paid for holidays and leave as required by law.
  - All hourly wages, piecework, bonuses, and other incentives will be calculated and recorded accurately.
  - All compensation shall be paid in a timely manner.
  - Workers paid on the basis of incentive quotas will be paid not less than the minimum or prevailing wage, whichever is higher.

- 
- Regardless of any production quotas, incentives will not be reduced or unpaid if the result will be wages below the minimum wage.
  - Employers will not use hidden or multiple payroll records in order to hide overtime, to falsely demonstrate hourly wages, or for any other fraudulent reason.
  - All legally required payroll documents, journals and reports will be available complete, accurate and up-to date. (In the United States terms this would include W-4s, I-9s, green cards, 941s and supporting material.)
  - All employees will be credited with all time worked for an employer for purposes of calculating length of service to determine the benefits to which workers are entitled.
  - Under extraordinary business circumstances, employers will make extensive efforts to secure voluntary overtime work prior to mandating involuntary overtime.
  - Positive incentives will be utilized, and known by the workers.
  - Negative incentives or punitive actions will not used to induce overtime in excess of Code standards.
  - Employer personnel practices will demonstrate an effort to maintain a level of staffing that is reasonable in view of predictable or continuing fluctuations in business demand.
  - Except in extraordinary business circumstances, employees will (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country will not limit the hours of work, the regular work week in such country plus 12 hours overtime; and (ii) be entitled to at least one day off in every seven day period. An extraordinary business circumstance is a temporary period of extra work that could not have been anticipated or alleviated by other reasonable efforts.
  - The employer will demonstrate a commitment to reduce mandated overtime and to enact a voluntary overtime system to meet unforeseen situations.
  - If the employer repeatedly requires overtime in order to respond to the same situation, the employer will explain why it will not have sufficient staff on hand to avoid the necessity of overtime.
  - Employers shall be able to provide explanation for all periods when the extraordinary business circumstances exception has been used. Employers shall take reasonable steps to inform workers about the nature and expected duration of the circumstances.
  - The factory will comply with all applicable laws governing work hours, including those regulating or limiting the nature and volume of work performed by women or workers under the age of 18.
  - Employers will maintain necessary records identifying all workers entitled to legal protections for women and workers under 18.
  - Employers will ensure reasonable meal and rest breaks, which, at a minimum, must comply with local laws.
  - Employees will be paid for all hours worked in a workweek. Calculation of hours worked must include all time that the employer allows or requires the worker to work.

- The factory shall comply with applicable law for premium rates for overtime compensation.
- Workers shall be informed about overtime compensation rates, by oral and printed means.
- Where workers are paid on a piece rate, the payment for overtime work performed shall result in no less payment than the premium pay required by law.
- Overtime hours worked in excess of Code standard will be voluntary.

v

**Table 3: Wages and Benefits Noncompliance in 2004 – By Benchmark**

<b>Wages and Benefits Benchmarks</b>	<b>Number of Noncompliance Issues</b>	<b>Percent of Total</b>
Minimum Wage	19	8%
Training Wage	1	0%
Wage Benefits Awareness	14	6%
Wage and Benefits Posting	4	2%
Wage and Benefits Information Access	3	1%
Voluntary Use of Benefits	6	3%
Deduction for Services	6	3%
Payroll Reporting	11	5%
Pay statement	14	6%
Time-recording system	24	10%
Record Maintenance	20	9%
Legal benefits	33	14%
Payment of wages	5	2%
Payment of Legal Benefits	6	3%
Timely Payment of Benefits	5	2%
Illegal Holding of Funds	2	1%
Legal Compliance for holiday/leave	11	5%
Accurate recording of wage compensation	6	3%
Timely Payment	3	1%
Minimum wage/ Quotas	0	0%
Minimum wage/ Incentives	2	1%
False Payroll Records	4	2%
Record Maintenance	4	2%
Accurate benefit compensation	7	3%
Wages and Benefits Other	21	0%
<b>Total</b>	<b>231</b>	<b>100%</b>

**Table 4: Hours of Work Noncompliance in 2004 – By Benchmark**

<b>Hours of Work Benchmarks</b>	<b>Number of Noncompliance Issues</b>	<b>Percent of Total</b>
Forced overtime	6	5%
Positive Incentives	0	0%
Negative Incentives	1	1%
Reasonable Maintaining of Staff	1	1%
Overtime Limitations	79	69%
Reduce Mandated OT	2	1%
Explanation of continued required OT	0	0%
Overtime Explanation	0	0%
Legal compliance with protected workers	8	6%
Record Maintenance (Women, <18yrs)	2	1%
Hours of Work Other	19	16%
<b>Total</b>	<b>118</b>	<b>100%</b>

**Table 5: Overtime Compensation Noncompliance in 2004 – By Benchmark**

<b>Overtime Benchmarks</b>	<b>Number of Noncompliance Issues</b>	<b>Percent of Total</b>
OT Breaks	11	12%
Accurate recording of OT hours worked	21	23%
OT Compensation	33	36%
OT Compensation Awareness	8	9%
OT Compensation for Piece	3	3%
Voluntary OT	9	10%
OT Other	7	7%
<b>Total</b>	<b>92</b>	<b>100%</b>

viii **FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING**

**A. WORKPLACE CODE PROVISION: Employers will recognize and respect the right of employees to freedom of association and collective bargaining.**

**B. Benchmarks**

- Workers will have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment.
- The employer will not interfere, to the detriment of worker's organizations, with government registration requirements regarding the formation of workers' organizations.

- 
- The employer will not dismiss, discipline, or otherwise coerce or threaten workers seeking to form, join or participate in workers' organizations.
  - The employer will not interfere with workers' exercise of the right to freedom of association through intimidation, including illegal or unreasonable searches.
  - The employer will not use force, or the presence of police or military, to intimidate workers, or to prevent peaceful organizing or assembly.
  - The employer will not interfere with the right to freedom of association by controlling workers' organizations or favoring one workers' organization over another.
  - The employer will not discriminate against workers who seek to exercise their right to organize and bargain collectively.
  - In cases where a single union represents workers, the employer will not interfere in any way in workers' ability to form other organizations that represent workers.
  - Employers will comply with all national and local laws and regulations concerning collective bargaining and free association. Where conflicts are known to exist, employers will use the standard that provides the greatest protection for workers.
  - The employer will not shift production or close a factory for the direct purpose of retaliating against workers who have formed or are attempting to form a union.
  - Workers' organizations have the right to elect their representatives and conduct their activities without employer interference.
  - The employer will not dismiss, discipline, or otherwise coerce or threaten workers because of their exercise of the right to freedom of association. When union officers are dismissed, demoted or otherwise suffer a loss of rights at work, a monitor should look with special attention at the possibility of anti-union discrimination.
  - Employers will negotiate in good faith with any union that has been recognized, by law or agreement between the employer and that union, as a bargaining agent for some or all of its employees.
  - Employers and employees will honor in good faith, for the term of the agreement, the terms of any collective bargaining agreement they sign. Employees shall be able to raise issues regarding CBA compliance by the employer without retaliation.
  - In any case where the industrial relations system specifies certain unions as the exclusive bargaining agent, employers will not be required to engage in collective bargaining with other worker groups or organizations on matters covered by the collective agreement.
  - Trade unions not recognized as bargaining agents of some or all of the workers in a facility should have the means for defending the occupational interests of their members, including making representations on their behalf and representing them in cases of individual grievances, within limits established by applicable law. Workers' representatives should have the facilities necessary for the proper exercise of their functions, including access to workplaces.
  - Employers will not use blacklists of any kind.
  - Employers shall not offer or use severance pay (or "indemnización" in Latin America) as a means of restricting union formation or union operations.

**Table 6: Freedom of Association Noncompliance in 2004 – By Benchmark**

<b>Freedom of Association Benchmarks</b>	<b>Number of Noncompliance Issues</b>	<b>Percent of Total</b>
Right to Freely Associate	28	44%
Employer Interference in registration	2	3%
Unfair dismissal	1	2%
Employer interference/ intimidation	0	0%
Employer interference/ external forces	0	0%
Employer control/ favoritism	0	1%
Discrimination	3	5%
Employer interference/ formation of alternative organizations	1	2%
Compliance to local collective bargaining laws	2	3%
Retaliation against Union Formation	0	0%
Employer Interference/Elections	5	8%
Union Harassment	0	0%
Union Negotiation	0	0%
Victimization	0	4%
Union as the Bargaining Agent	2	3%
Access to Unions	0	4%
Blacklisting	0	0%
Severance	1	2%
Freedom of Assoc. & Collective Bargain. Other	19	29%
<b>Total</b>	<b>64</b>	<b>100%</b>

**Table 7: Code Awareness Noncompliance in 2004—Principles of Monitoring – Obligation of Companies**

<b>Code Awareness Benchmarks</b>	<b>Number of Noncompliance Issues</b>	<b>Percent of Total</b>
Code Posting & Establish Clear Standards	24	17%
Worker / Management Code Awareness	63	43%
Noncompliance Reporting Mechanism	51	35%
Code Awareness Other	7	5%
<b>Total</b>	<b>145</b>	<b>100%</b>

**WORKPLACE CODE PROVISION: Every employee will be treated with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment or abuse.**

**A. Benchmarks**

- Employers will utilize progressive discipline, e.g., escalating discipline using steps such as verbal warning, written warning, suspension, termination. Any exceptions to this rule, e.g., immediate termination for theft or assault, shall be in writing and clearly communicated to workers.
- Employers will not use physical discipline, including slaps, pushes or other forms of physical contact (or threats of physical discipline).
- Employers shall not offer preferential work assignments or other preferential treatment of any kind in actual or implied exchange for a sexual relationship, nor subject employees to prejudicial treatment of any kind in retaliation for refused sexual advances.
- Employers will utilize consistent written disciplinary practices that are applied fairly among all workers.
- Employers will provide training to managers and supervisors in appropriate disciplinary practices.
- Management will discipline (could include combinations of counseling, warnings, demotions, and termination) anyone (including managers or fellow workers) who engages in any physical, sexual, psychological or verbal harassment or abuse.
- Employers will maintain written records of disciplinary actions taken.
- Employers will prohibit screaming, threatening, or demeaning verbal language.
- Security practices will be gender-appropriate and non-intrusive.
- Access to food, water, toilets, medical care or health clinics or other basic necessities will not be used as either reward or punishment.
- Employers will not unreasonably restrain freedom of movement of workers, including movement in canteen, during breaks, using toilets, accessing water, or to access necessary medical attention.
- Employers will not use monetary fines and penalties for poor performance.



**Table 8: Harassment or Abuse Noncompliance in 2004 – By Benchmark**

<b>Harassment or Abuse Benchmarks</b>	<b>Number of Noncompliance Issues</b>	<b>Percent of Total</b>
Progressive Discipline	4	5%
Physical Abuse	2	3%
Sexual Harassment	3	4%
Disciplinary Practices	10	12%
Training of Management in Disciplinary Practices	15	19%
Disciplinary Action Punishment of Abusive Supervisors/ Manager	4	5%
Record Maintenance	6	7%
Verbal Abuse	11	13%
Gender Sensitive Security	1	1%
Access to Facilities	3	4%
Freedom of Movement	2	3%
Monetary Fines and Penalties	9	11%
Harassment or Abuse Other	11	13%
<b>Total</b>	<b>81</b>	<b>100%</b>

xiii **FORCED LABOR**

**A. WORKPLACE CODE PROVISION: There will not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise.**

**B. Benchmarks**

- Employers will not use prison labor.
- Employers will not bind workers to employment as a condition of fulfilling terms of a debt to a third party or to the employer. Advances will not exceed three months pay or legal limits, whichever is less.
- Workers will be compensated for their work directly through the provision of cash or its equivalent. In-kind compensation is permissible, if local law permits, so long as legal limits are complied with and receipt of in-kind compensation is voluntary.
- Workers will not be engaged to work in a factory by a family member, associate or friend so that the family member, friend or associate receives continuing remuneration, consideration, or other return from the employer. (This will not refer to normal references, referral bonuses or standard employment recruitment practices.)
- Employers will maintain sufficient hiring and employment records to demonstrate and verify compliance with this Code provision.
- If factory entrances are locked or guarded to prevent non-employee access to the premises for security reasons, employees will have free egress at all times.
- Workers will not be required to live in employer-owned or controlled residences.

- The freedom of movement of workers who live in employer controlled residences will not be unreasonably restricted.
- All workers will have the right to enter into and to terminate their employment freely.
- Employment terms shall be those to which the worker has voluntarily agreed.
- Employers are prohibited from practices that restrict a worker's ability to terminate his or her employment or freedom of movement, including physical or mental coercion, deposits, unreasonable financial penalties or recruitment fees, and access to and renewal of identity papers and/or work permits or other legal identification documents.
- Workers will retain possession or control of their passports, identity papers, travel documents or any other personal legal documents. Employers will not retain them to restrict workers' access to their personal identification documents, or to ensure that workers will remain in employment in the factory. Employers may obtain copies of original documents for record-keeping purposes.
- Employers will provide, at employee request, secure storage for employee documents. Such storage will be freely accessible to workers.
- There can be no employment terms (including contracts, recruitment arrangements, or any other instruments) which specify that employees can be confined or be subjected to restrictions on freedom of movement; allow employers to hold wages already earned; provide for penalties resulting in paying back wages already earned; or, in any way punish workers for terminating employment. (It is acceptable to provide bonuses to workers who stay for a term of contract and meet reasonable conditions, such as regular attendance, punctuality, good quality, etc.)
- Deductions for repayment of any recruitment fees will not be made without the consent of the worker.

xiv

**Table 9: Forced Labor Noncompliance in 2004 – By Benchmark**

<b>Forced Labor Benchmarks</b>	<b>Number of Noncompliance Issues</b>	<b>Percent of Total</b>
Forced Labor	0	0%
Indebtedness	0	0%
In-kind Compensation	0	0%
Debt / Bondage labor	0	0%
Employment Records	16	40%
Freedom of Movement	1	2%
Employer Controlled Residence	0	0%
Freedom In Employment	2	5%
Employment terms	4	10%
Confiscated Original Documents	2	5%
Accessible Records/ Documents	1	2%
Recruitment Contracts	1	2%
Recruitment Fees	0	0%
Forced Labor Other	13	33%
<b>Total</b>	<b>40</b>	<b>100%</b>

---

<sup>xv</sup> **NONDISCRIMINATION**

**A. WORKPLACE CODE PROVISION: No person will be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.**

**B. Benchmarks**

- Employment decisions will be made solely on the basis of education, training, demonstrated skills or abilities. All employment decisions will be subject to this provision. They include: hiring, job assignment, wages, bonuses, allowances, and other forms of compensation, promotion, discipline, assignment of work, termination of employment, and provision of retirement.
- There shall be no differences in compensation and benefits attributable to gender.
- Employers will not prohibit the employment of married women.
- Employers will not use pregnancy tests or the use of contraception as a condition of hiring or of continued employment. Employers will not require pregnancy testing of female employees, except as required by national law.
- Information arising from pregnancy testing undertaken voluntarily will not be used as a factor in involuntarily reassigning, firing or making any other employment decision that disadvantages a pregnant woman.
- Reasonable accommodation will be made in the event of pregnancy, in a manner that will not unreasonably disadvantage the pregnant woman.
- Employers will not, on the basis of a woman's pregnancy, make decisions that result in dismissal, threat to dismiss, loss of seniority, or deduction of wages.
- Employers will ensure that pregnant women are not engaged in work that creates substantial risk to the health of the pregnant woman.
- Employers will ensure that women are not engaged in work that creates substantial risk to their reproductive health.

**Table 10: Nondiscrimination Noncompliance in 2004 – By Benchmark**

<b>Non Discrimination Benchmarks</b>	<b>Number of Noncompliance Issues</b>	<b>Percent of Total</b>
Hiring Discrimination Practices	24	51%
Sex Discrimination	1	2%
Marital Discrimination	5	11%
Pregnancy Testing	7	15%
Pregnancy Discrimination	1	2%
Pregnancy Accommodation	0	0%
Pregnancy Dismissal	0	0%
Pregnancy Risk	0	0%
Reproductive Health	0	0%
Non discrimination Other	9	19%
<b>Total</b>	<b>47</b>	<b>100%</b>

xvii **CHILD LABOR**

**A. WORKPLACE CODE PROVISION: No person will be employed at an age younger than 15 (or 14 where the law of the country of manufacture allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.**

**B. Benchmarks**

- If the law requires government permits or permission from parents, as a condition of employment, the employers will keep documentation on-site for inspection at all times.
- Employers will maintain proof of age documentation for all workers, such as a birth certificate, which verifies date of birth.
- In those cases where proof of age documentation is not readily available, employers will take precautions to ensure that all workers are at least the minimum working age, including medical or religious records, or other means considered reliable in the local context.
- Apprentices or vocational students will be at least the minimum working age.
- Employers will comply with all regulations and requirements of apprentice or vocational education programs, and will be able to document to monitor that these are legally recognized programs. Informal arrangements, which result in students leaving school prior to attaining the compulsory age for schooling, are not acceptable.
- Childcare facilities will not physically overlap with production areas, and children will not have access to production areas.
- Children under the local minimum working age will not be allowed in the factory work area at any time, unless they are part of a guided school group tour or other such unusual event. Children must not visit parents in the factory production areas.

- Employers will comply with applicable laws that apply to young workers, i.e., those between the minimum working age and the age of 18, including regulations relating to hiring, working conditions, types of work, hours of work, proof of age documentation, and overtime.
- Employers will have a system for identifying work stations and operations that are inappropriate for young workers according to applicable laws.
- Employers will ensure that, all workers engaged in operating or working close to hazardous equipment, working at dangerous heights or lifting heavy loads, or exposed to hazardous substances, are above the legal age for such work.

xviii

**Table 11: Child Labor Noncompliance in 2004 – By Benchmark**

<b>Child Labor Benchmarks</b>	<b>Number of Noncompliance Issues</b>	<b>Percent of Total</b>
Parent Consent Documentation	0	0%
Age Documentation	6	25%
Age Verification	4	17%
Legal working Age (Vocational)	0	0%
Legal Compliance (Apprenticeships)	0	0%
Childcare Facilities	1	4%
Children on premises	1	4%
Legal Compliance for Juvenile workers	6	25%
Juvenile worker Identification System	1	4%
Lack of protection of under age workers	4	17%
Child Labor Other	1	4%
<b>Total</b>	<b>24</b>	<b>100%</b>

xix

**Table 12: Miscellaneous Noncompliance in 2004 \***

<b>Miscellaneous</b>	<b>Number of Noncompliance Issues</b>	<b>Percent of Total</b>
Illegal subcontracting	18	32%
Possible homework	2	4%
Miscellaneous Other	36	64%
<b>Total</b>		<b>100%</b>

*\* Miscellaneous are the noncompliances that do not fall under the Workplace Code of Conduct or any of the FLA Benchmarks but are inconsistent with applicable national and local laws or with FLA company requirements.*