INDEPENDENT EXTERNAL ASSESSMENT OF APPLE SUPPLIER FACTORY OPERATED BY PEGATRON CORP.

EXECUTIVE SUMMARY

The Fair Labor Association (FLA) conducted an independent external assessment between December 22 and 27, 2014 at Protek Shanghai Ltd, a facility operated by Pegatron Corporation. Pegatron is a supplier to Apple, a Participating Company with the FLA. The assessment was conducted by FLA staff and Openview Services, a local, independent labor monitoring organization accredited by the FLA.

Following the FLA’s Sustainable Compliance Initiative (SCI) methodology, assessors identified instances of non-compliance with legal requirements and the FLA Workplace Code of Conduct, along with their root causes. The assessment reports are designed to enable Apple to develop and implement sustainable remediation plans.

Overall, assessors spent five days in the 65,000-worker facility. Assessors conducted 778 worker interviews (with 141 of them conducted off-site). Due to confidentiality of Apple’s new and ongoing product development, assessors were denied access to areas representing 15 percent of the factory’s total production areas. As a result, the final assessment is incomplete and contains no observations for the restricted areas; any findings from this area come from document review or worker interviews only.

This report is the third assessment of Apple suppliers published by the FLA since 2012. Key findings on hours of work, dispatch workers, freedom of association, and compensation were similar to those identified in FLA assessments of other Apple suppliers in China.

Those previous reports are available on the FLA website at www.fairlabor.org/affiliate/apple, where the full version of this report is also available.
FINDINGS AND AREAS OF RISK

The full SCI report explains each violation found by the assessment team, followed by the FLA’s root cause analysis and specific recommendations\(^1\) for immediate action and sustainable improvement.

In addition to findings of violations, assessors identified areas of risk that did not meet technical definitions of noncompliance with local law or the FLA Workplace Code of Conduct. These areas of risk warrant attention from Pegatron and Apple, and in some cases, call for the setting of new benchmarks by the FLA. These areas of risk are noted below along with the main findings from the full report.

In response to the FLA assessment, Apple and Pegatron are developing remediation plans for code violations noted in the report. The companies’ remediation plans are publicly disclosed at [www.fairlabor.org/affiliate/apple](http://www.fairlabor.org/affiliate/apple), and have not been reviewed by the FLA.

1) Hours of Work

**Finding** – Assessors’ review of time records for the 12 months prior to the assessment showed that the factory exceeded both the legal and FLA Code limits on hours of work. Between 51 and 76 percent of sampled workers logged overtime work in excess of the monthly legal limit of 36 hours from March to May of 2014, reaching a maximum of 103.5 hours (or three times the legal limit) in May 2014. For other months of the year, the factory secured a “Cumulative Working Hours System approval” from the local authority, allowing overtime work in excess of 36 hours in a given month provided the total overtime hours do not exceed the legal limit for the approved period.

**Finding** – During the peak season from September through November 2014, while permitted to exceed the legal limit, 23 percent of workers, on average, worked more than 60 hours per week—the maximum allowed by FLA Workplace Code.

**Finding** – In addition, during this same period, nearly 10 percent of workers on average did not receive the 24 consecutive hours of rest per seven-day period as required by the FLA Code. The longest documented period without a rest day was 21 consecutive days worked by 17 workers in the engineering department. The factory reported that Apple had been informed and consented to extra overtime during peak production period; assessors identified high worker turnover and preparation for new product lines as additional root causes of excessive hours of work.

**Area of Risk** – Fifteen percent of the workers sampled for record review were required to wait up to 31 minutes to clock out due to long queues at the factory gates. In addition, based on management and worker interviews, assessors found that workers lost a part of their lunch breaks on long queues due to security checks. The FLA recommends that the

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\(^1\) Recommendations for immediate actions are included in the public report and therefore not included in this executive summary for the sake of brevity.

\(^2\) Under the labor dispatch system, the dispatch agency – not the factory – is the worker’s legal employer. However, the factory is responsible for monitoring correct payment of social insurance contributions for dispatch workers.
factory devise a more efficient system to reduce the punch-out process to a maximum of 15 minutes or less by, for example, installing more punch card readers. Also, FLA recommends that the factory take measures to ensure that the workers do not wait an unreasonably long time for the security check.

2) Dispatch Workers

Finding — Thirty-eight percent of workers at the facility were hired through dispatch agencies. Although the Chinese Labor Contract Law stipulates that labor dispatch workers may be hired only for temporary, auxiliary, or substitute positions, there was no distinction between the duties of the dispatch workers and those of regular, permanent workers. Of the nine dispatch agencies used by Protek, the factory was able to provide documents for only three. Based on this limited sample, FLA assessors found that the social insurance payments of some the workers hired through these agencies were delayed.²

Area of Risk — Recent national regulation caps the share of dispatch workers in the workforce at ten percent, which employers must achieve by February 29, 2016.

3) Student Interns and Young Workers

Finding — Assessors identified delays in the periodic health examinations of young workers that are required by law. Through a review of the factory’s records, assessors also found that interns had been working overtime, and that young workers (between 16 and 18 years of age) had been charged for health examination by labor dispatch agencies in violation of local law. Both issues were identified previously by Apple and remedied by the factory in June 2014. Interns designated “Grade 1 – 3” (who are prohibited by law from working overtime) were no longer working overtime at the time of the assessment. The factory was also no longer charging young workers for their health examinations, and had reimbursed the affected workers for previous health examination fees at the time of the assessment.

Area of Risk — Assessors found 415 college student interns (18 years of age or older) designated “Grade 4 - 5” working overtime on a regular basis. Although overtime is allowed for this category of interns under the law, FLA recommends that the factory not assign overtime work to these workers.

Area of Risk — An additional 358 young workers (between 16 and 18 years of age) found working in the factory were not registered with the local labor administration authorities. There is currently no registration system in Shanghai specifically for young workers; therefore, FLA recommends that the factory register the young workers using the local labor administration’s general online system used normally for adult workers, indicating workers’ date of birth, in order to track the use of young workers in the factory.

² Under the labor dispatch system, the dispatch agency – not the factory – is the worker’s legal employer. However, the factory is responsible for monitoring correct payment of social insurance contributions for dispatch workers.
4) Pregnant Workers

**Finding** - Based on worker interviews, FLA assessors found that female workers were asked if they were pregnant during the application process. While factory management explained that this is intended to prevent pregnant workers from exposure to an X-ray examination conducted on the factory campus as part of the recruitment process, the practice carries the risk of discrimination against pregnant applicants. In addition, nine non-production workers who were pregnant for seven months or longer were found to have worked overtime in violation of the local law. FLA recommends the discontinuation of X-ray examination prior to hiring, except for workers in high-risk positions. At the time of the assessment, 63 pregnant workers were employed at the factory.

**Area of Risk** – Employees pregnant for less than seven months were found to have worked overtime. Although overtime is allowed for this category of worker under the law, FLA recommends that the factory not assign overtime to any pregnant worker in the interest of protecting their reproductive health.

5) Compensation

**Finding** – FLA assessors found that sick leave was paid at a rate below the legal minimum, with workers who have been working at the factory for less than two years receiving only 60 percent of the basic wage when on sick leave, which did not meet the required level of 80 percent of the minimum wage. Additionally, the factory did not compensate workers for up to six hours spent during the induction process. Also, assessors found that the factory did not pay into the legally required Housing Provident Fund for workers registered as “suburban residential,” who constitute 97.4 percent of the workforce.

**Area of Risk** – Based on the review of social insurance payment records from December 2013 to November 2014, the factory provided pension, medical, and work-related injury insurance to all workers. However, migrant employees, who are registered as “suburban residential” and constitute 96 percent of the total workforce, were not covered by unemployment or maternity insurance. Shanghai social security administration does not currently allow for the registration of this category of workers with unemployment and maternity insurance. Until the Shanghai government takes action to fill this gap, FLA recommends that the factory continue to reimburse workers for child-birth medical expenses and pay the basic wage during maternity leave. The factory is also recommended to train the workers on these benefits.

6) Movement Restriction

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3 The Housing Provident Fund system has come under criticism for the complicated process to claim the benefits, especially for migrant workers. Recently, national authorities have announced amendments that simplify the claim process for buying or renting a house or apartment.
Finding - Based on worker interviews and document review, assessors found that Grade 1 workers, who make up 90 percent of the workforce, were not allowed to leave the buildings during lunch breaks, without first submitting an application form. Coupled with a lack of sufficient rest areas, this movement restriction results in many workers resting at their workstations during lunch break.

7) Freedom of Association

Finding - The factory has a trade union as part of the sole official Chinese trade union, the All China Federation of Trade Unions (ACFTU). Instead of being directly elected by workers, all union representatives had been nominated by supervisors and none of the eight members of the Union Committee were workers. Assessors also found that the factory paid union dues on behalf of the workers and that the great majority of the interviewed workers were aware of neither the worker representatives nor the content of the collective bargaining agreement. Because Chinese law does not recognize certain principles fundamental to freedom of association as described by the International Labour Organization (ILO) Conventions, all factories in China fall short of the standard required by the FLA Workplace Code of Conduct.

8) Transferred Workers

Finding - At the time of the assessment, there were 1,600 workers at the facility who had been transferred from Pegatron’s facility in Kunshan City. Most of the interviewed workers were either unaware of the purpose of this temporary arrangement or thought they were at the facility as supportive workforce. Although the management gave training as the purpose of transfer, there was no documentation available to support this statement and these workers had no written agreement to reflect the change of workplace.

9) Health, Safety & Environment

Finding - Assessors identified ergonomic deficiencies with the workstations (for example, stools without backrests, and workstations positioned too close to each other). In the dormitories operated by the factory, assessors observed overcrowding; for example, assessors found ten workers living in one room with a living space of 2.9 square meters per occupant. They also observed several issues with fire safety and emergency preparedness; for example, some workstations were blocked, some emergency evacuation plans were obstructed, and fire drill logs were missing certain key information. Twenty percent of the operators working in areas with occupational risk factors had not undergone off-job health examinations. Additionally, structural safety certificates were found to be missing for most of the production and dormitory buildings. With respect to environmental protection, assessors found that environmental impact assessments for four production buildings had yet to be renewed and that secondary containment was missing for some of the chemicals used. Additionally, some deficiencies with solid waste management and power generator emission control were observed.
**Area of Risk** - During the factory walkthrough, empty R-22 gas (refrigerant) canisters were found on the rooftop of one production building. While it was not clear where in the factory this refrigerant was in use, FLA recommends that the factory explore alternative environmentally friendly, non-ozone depleting refrigeration gases for use in air conditioning systems.

**10) Grievance System**

**Area of Risk** - A number of complaint boxes were placed in locations (main aisles and next to the main doors opening to production lines) that make it difficult for workers to make complaints privately and anonymously. Based on review of grievance records, fewer than three percent of all grievances were lodged through complaint boxes. While the factory has a robust grievance system and multiple grievance-reporting channels, the FLA recommends that complaint boxes be placed in locations that ensure confidentiality.

**Area of Risk** - Apple has not provided channels for the workers to contact the company directly and confidentially. The company only provides contact information to workers interviewed during internal audits. The FLA recommends that Apple establish a channel such as a toll-free phone number that is accessible by all workers and is clearly communicated to workers.