WORKER RIGHTS CONSORTIUM

WORKER RIGHTS CONSORTIUM
FACTORY ASSESSMENT
HANSAE VIETNAM CO., LTD. (VIETNAM)

FINDINGS, RECOMMENDATIONS, STATUS UPDATE

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5 Thomas Circle NW ■ Fifth Floor ■ Washington, DC 20005
(202) 387-4884 ■ Fax: (202) 387-3292
wrc@workersrights.org ■ www.workersrights.org

I. Introduction

This report details the findings and recommendations of the Worker Rights Consortium ("WRC") concerning labor practices at Hansae Vietnam Co., Ltd. ("Hansae Vietnam" or "Hansae"), an apparel manufacturing facility located in the Cu Chi Industrial Zone in Ho Chi Minh City, Vietnam, that produces university licensed goods for Nike and employs nearly 8,500 workers.

This document incorporates the findings the WRC reached in our preliminary report on Hansae, issued May 6, 2016; additional findings reached through onsite inspection and worker interviews in October of 2016; and findings reached by the Fair Labor Association ("FLA") through its assessments of labor practices at the factory (see below for an explanation of WRC-FLA cooperation on this case and both organizations' contributions to the identification and documentation of labor rights violations).

We have identified numerous violations of university labor standards at Hansae, including, wage theft; verbal abuse of workers; pregnancy discrimination; forced overtime; illegal restrictions on workers' use of toilets; denial of sick leave, family leave, and bereavement leave; and an array of health and safety violations, from interior factory temperatures well in excess of the legal limit of 90 degrees, to unsafe spraying of toxic solvents, to padlocked exit doors, to the chronic problem of workers collapsing unconscious at their sewing machines due to heat and overwork.

Nike has now acknowledged the violations identified at Hansae and has worked with Hansae to produce a corrective action plan. While positive in important respects, the plan did not, initially, include all of the remedies necessary to bring Hansae into compliance with university codes of conduct, including back pay to correct past wage theft, substantial upgrades to equipment and physical plant to protect health and safety, reversal of improper disciplinary actions and terminations, and appropriate discipline for managers that have acted in an abusive manner.

The WRC provided Nike with a list of outstanding remedies, which the FLA has endorsed. The WRC has asked for Nike's commitment to require Hansae to implement those additional remedies. We received a reply from Nike that we understand to constitute such a commitment. We expect that commitment to be translated into a revised action plan from Hansae, which will enable us to confirm whether Hansae indeed now intends to take all necessary corrective measures.

Beyond the specific violations identified, and the ongoing efforts to address them, this case has profound implications for the future of independent monitoring, by universities, of their licensees' supply chains. Hansae is a major manufacturer that produces for many leading global brands. Its customers, including Nike, which has been making university logo goods at the

factory for more than a decade, have been auditing the factory for years.[1] Yet these brand and retailer audits never identified and never corrected most of the serious labor rights violations taking place at Hansae. Instead, these were not uncovered until the WRC launched its investigation in October of 2015. It is hard to imagine a clearer illustration of the importance of universities' ongoing efforts to independently monitor licensees' labor practices.

The WRC's work in that regard is, however, still jeopardized – because Nike has failed to provide a commitment to facilitate access for the WRC to its collegiate factories in the future. Without this access, the WRC will be unable to fully perform its independent monitoring work on behalf of affiliate universities and colleges. Thus, while we appreciate Nike's commitments to remedy the violations at Hansae, the problem of Nike's refusal to facilitate WRC access to its *other* collegiate factories remains unresolved.

Violations of University Labor Standards at Hansae Vietnam - Summary

Based on credible, mutually corroborated testimony from Hansae employees, and onsite inspection of the factory, including interviews with factory managers and review of company records, the WRC has identified numerous significant violations of both university labor codes and Vietnamese labor law at Hansae Vietnam. These violations include, but are not limited to:

- Abusive and unsafe management practices – including excessive production quotas, relentless pressure on workers to meet these quotas, and failure to maintain required temperature levels in factory buildings – that have resulted in numerous incidents of workers collapsing unconscious at their work stations;

- Instances of physical abuse of workers by company managers; and pervasive verbal harassment of workers by managerial personnel, including yelling, swearing, and profane insults;

- Degrading restrictions on workers' use of the factory toilets and harassment of workers attempting to use these facilities;

- Other forms of harassment and abuse, including forbidding employees from yawning at work and threatening workers with disciplinary action if they did not follow such rules;

- Forced and excessive overtime and use of falsified records to conceal this practice;

- Other wage and hour violations, including widespread off-the-clock work both before and after work shifts, as well as during rest periods;

[1] Hansae has also been audited by Better Work Vietnam, a monitoring program on which Nike relies for labor rights inspections of its Vietnamese suppliers. Better Work Vietnam also missed many of the most serious violations at Hansae – and failed to achieve remediation of some that it did identify.

- Illegal recruitment fees (i.e., bribes) extracted from prospective employees by certain managers as a condition of workers having their job applications considered by the company;

- Discriminatory dismissal of pregnant employees and denial of legally mandated workplace accommodations during pregnancy;

- Other types of unlawful dismissal, including coercing workers to resign and falsifying personnel records, in order to avoid legal obligations that apply when workers are involuntarily dismissed;

- Denial of sick leave, even when ordered by a doctor;

- Additional paid leave violations, including denial of legally required leave to care for infirm family members or to mourn deceased relatives;

- Management domination of the factory's labor union, including the installation of the factory's senior human resources manager as the union's executive chair, and placing other managers on the union's executive committee; and

- Numerous additional health and safety violations, including unsafe spraying of hazardous chemical solvents, inadequate seating exposing workers to risk of musculoskeletal injury, padlocking of some exit doors during work hours, unsafe food handling in the factory canteen, and temperatures in factory buildings in excess of the legal limit of 90 degrees Fahrenheit (32 Celsius), even during the cooler part of the year.

Hansae is a large and complex facility, consisting of 12 different production buildings, each having roughly 500 to 1,000 workers, and each with its own management team. Management practices and working conditions vary to some degree among Hansae's different buildings. Many practices and conditions that violate university labor codes (like verbal harassment, forced overtime, and workers collapsing from heat and overwork) are widespread, having occurred in most or all buildings, while other practices and conditions (such as formal restrictions on bathroom use) appear to have occurred in some buildings but not others – or, in the case of the bans on employees yawning or bringing ice to work, in one building.

Many of the violations discussed in this report occurred in buildings where Nike goods are produced, including the ban on yawning, excessive heat and related incidents of fainting, forced overtime, pregnancy discrimination, illegal recruitment fees, etc. It is nonetheless important to note that, under university labor codes, licensees are responsible for addressing labor rights violations in factories that make university logo goods, wherever in the factory these occur, not only in the particular areas where their licensed apparel is produced.

History of the Hansae Investigations

Hansae Vietnam is a subsidiary of Hansae Company Limited, a Korean multinational that also has apparel manufacturing operations in Burma (Myanmar), Guatemala, Indonesia and Nicaragua.[2] In 2015, Hansae had sales of more than $1.4 billion, an operating profit of $125 million, and sent 93% of its production to the United States. The company has operated its facility in Vietnam since 2001, and Nike has sourced university logo apparel from the facility for more than 10 years. Hansae's other buyers include Gap, H&M, Hanes, Inditex (Zara), JC Penney, Kohl's, Macy's, Children's Place, Polo Ralph Lauren, Target and Walmart.[3]

The WRC launched its investigation of working conditions at Hansae Vietnam in October of 2015, amidst reports of a strike at the factory, allegedly motivated by workers' anger over labor rights abuses. The WRC contacted Nike to request access to the facility on October 20, 2015. Nike refused to facilitate access, a position the company maintained for the subsequent nine months.

In communications to universities concerning its refusal to allow the WRC to inspect the factory, Nike reassured universities that the strike involved a single, narrow issue – a "miscommunication" between a non-Vietnamese-speaking manager and workers about a productivity bonus – and that the issue had been swiftly resolved to both workers' and management's "mutual satisfaction."[4] These reassurances, and Nike's explanation of the reasons for the strike, proved erroneous: the WRC's subsequent investigation revealed that the issues at Hansae went far deeper than language barriers and included, instead, an array of labor rights violations and abusive management practices, as documented in the present report.[5]

Denied access to Hansae by Nike, the WRC embarked on the work of arranging and conducting the substantial number of offsite interviews needed to reach findings concerning labor practices at the factory, a task that is more difficult in Vietnam than in any other country where the WRC works, because of the severe constraints on local civil society. Despite these obstacles, the WRC was ultimately able to gather sufficient evidence to reach findings on a number of issues and we provided a preliminary report to universities in May of 2016, reporting serious violations of university labor standards. The WRC's May 2016 report is available here.

In early 2016, the FLA also began an inquiry into labor practices at Hansae in response to a complaint about the factory from Cornell University (at the same time, Cornell asked the WRC to continue its investigation). Nike facilitated access to Hansae for the FLA, which issued a

[2] Hansae, Corporate Website, https://www.hansae.com/en/business/index.asp.
[3] Id., https://www.hansae.com/en/business/customers.asp.
[4] 3 Letter from Sharla Settlemaier, Nike Vice-President of Sustainable Manufacturing and Sourcing, to universities (December 8, 2015); (the text of this communication was provided to the WRC by Nike)
[5] For a more detailed discussion of the factors that precipitated the strikes, see the WRC's May 6 report on Hansae Vietnam, http://workersrights.org/Freports/WRC%20Assessment%20re%20Hansae%20Vietnam%205.6.2016.pdf.

report in June of 2016, addressing several issues related to the October 2015 strike. While the FLA's initial inquiry was considerably narrower in focus than the WRC's, the organizations' findings were mutually consistent. After the release of the WRC's May report, the FLA broadened its inquiry and conducted a further onsite assessment of Hansae, acting on a complaint from the University of Washington.

In July of 2016, after the intervention of Georgetown University and the University of Washington, Nike agreed to facilitate access to Hansae for the WRC, in the context of a joint WRC-FLA visit to the facility. That visit took place on October 13 and 14, and its findings form part of the basis of the present report.

WRC-FLA Cooperation

At the suggestion of Cornell University and other schools, the WRC and the FLA had, since early 2016, discussed the possibility of a joint visit to Hansae. However, throughout the first half of 2016, Nike declined to consent to such a visit.

In July of 2016, Nike granted its consent to a joint visit to Hansae by the WRC and the FLA. The WRC and the FLA agreed to schedule the visit and to cooperate more broadly in their ongoing work at Hansae. The two organizations agreed to share evidence gathered onsite, to share findings, to work to develop a common remediation plan, and to coordinate the timing of their reports (the FLA has issued a new report on Hansae, dated December 6, 2016). The FLA provided the WRC with access to documents and evidence gathered onsite during its previous visits to the factory. The WRC provided the FLA with its May 2016 report and shared new evidence gathered onsite during the October visit.

Both independently in their respective investigations, and jointly in the context of the October factory visit, the WRC and the FLA have reached substantially identical findings on labor rights compliance issues at Hansae. Many of the violations discussed in this report were first identified by the WRC and reported in our May preliminary report. Many additional violations were first identified by the FLA through its multiple factory assessments, including the extensive assessment the FLA carried out in the summer of 2016. The WRC identified additional violations, especially in the area of occupational health and safety, through the October factory visit and related offsite worker interviews.

Because the WRC and the FLA have had the opportunity to review each other's findings and documentary evidence, both organizations have been able to incorporate all findings, from all of their respective assessments, into their current reports. In the interest of simplicity, neither organization has, in the reports now being released, sought to specify which organization was the

originator of each particular finding. The two organizations have also reached agreement on a common set of remedial recommendations.[6]

The WRC appreciates the opportunity to work collaboratively with the FLA on this case and notes that both organizations have made substantial contributions toward a full understanding of labor practices and labor rights compliance at Hansae Vietnam.

II. Methodology

The WRC initiated its assessment of labor conditions at Hansae Vietnam in October 2015 and our research continues through the date of this writing. The WRC has conducted its assessment of Hansae with the assistance of local investigators who, along with WRC personnel, have conducted in-depth interviews with 41 current and former employees of Hansae Vietnam, including six managers and 35 non-management employees, as well as shorter follow-up interviews, both in person and by telephone.

The 35 workers who were interviewed range in age from 22 to over 50. Nine of these workers are men and 26 are women (a ratio reflective of the demographic make-up of the Vietnamese apparel workforce). Most of the workers interviewed are sewing operators, a classification which makes up the bulk of employment at the factory; the group also includes workers employed in ironing, finishing, and warehouse operations. The WRC interviewed workers from nine of the factory's production buildings, including three buildings where workers report that Nike goods are manufactured.

Workers have been interviewed offsite, in locations of their choosing and under conditions of strict confidentiality, due to workers' fear of reprisal from management if it became known that they had spoken candidly to outside investigators. This methodology is consistent with established best practice in labor rights investigations, which recognizes that workers interviewed inside factories are more vulnerable to intimidation and "coaching" by factory managers, which often leads to concealment and underreporting of violations.[7] The WRC also reviewed local Vietnamese media reports concerning events at the factory.

[6] While the WRC's and the FLA's findings and recommendations in this case are substantially consistent, there are some differences between the two organizations' reports. In addition to differences in the organizations' reporting formats and presentation of evidence, these variances relate to the fact that the WRC's terms of reference in our reporting are university codes of conduct, while the FLA's terms of reference are its own workplace code and compliance benchmarks. For this reason, the WRC's report does not discuss certain issues identified by the FLA as implicating its own standards and benchmarks – particularly in the areas of Hansae's management systems – where these do not also constitute violations of university codes.

[7] *See, e.g.*, Kishanthi Parella, "Outsourcing Corporate Accountability," 89 *Wash. Law Rev*. 747, 776 (2014), https://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/1394/89WLR0747.pdf?sequence=1&isAllowed=y.

On October 13 and 14, the WRC conducted a two-day site visit to the Hansae Vietnam facility in conjunction with a visit to the factory by representatives of the FLA. Nike representatives were also present in the factory during this period. This visit included the following activities:

- Meetings with the factory management, and representatives of Nike, and the FLA to allow the management to present information related to its response to the findings of the WRC and the FLA;
- Walk-through occupational safety and health inspection of selected factory buildings; and
- Interviewing factory managers and reviewing company records regarding occupational safety and health hazards and the factory's activities to address these, as well as concerning other issues identified through the WRC's offsite worker interviews.

With respect to assessment of occupational safety and health issues at the factory, the WRC's onsite activities at Hansae were conducted by two workplace safety and health specialists, both certified industrial hygienists, one of whom is a former top official at the state of California's occupational safety and health agency (Cal/OSHA).

In addition to the interviews that other members of the WRC investigative team conducted with Hansae workers and managers, which are already noted above, the WRC's industrial hygienists held their own discussions with Hansae managers and workers that were focused strictly on workplace safety and health issues. These included conversations with the company's two designated occupational safety and health staff, with five members of the factory health and safety committee, and with the managers and deputy managers of the seven production units that the WRC team inspected.

The findings and recommendations of the WRC's safety and health specialists have been incorporated into this assessment. Their communication to the WRC presenting their findings and recommendations can be reviewed in full in an appendix to this document.

The WRC assessed the factory's labor practices and working conditions in relation to its obligations under:

- University labor codes;
- Vietnamese labor law and regulations, including Vietnam's 2012 Labor Code[8] and implementing regulations, including the 2012 Labor Hygiene Standards issued by the country's Ministry of Health;[9] and

[8] Labor Code of June 18, 2012, Law 10-2012-QH13 ("Labor Code"), available in English translation at: https://www.ilo.org/dyn/natlex/docs/MONOGRAPH/91650/114939/F224084256/VNM91650.pdf.
[9] Ministry of Health, Labour Hygiene Standards (Oct. 10, 2012).

- Conventions of the International Labour Organization (ILO) that Vietnam's government has ratified or that are otherwise binding upon it.[10]

III. Findings, Recommendations, and Status

We outline below all findings of labor rights violations at Hansae Vietnam. For each finding, we describe the violation, cite the relevant legal and code of conduct standards, and review the underlying evidence.

Because many of these violations were reported by the WRC in our May 6 preliminary report, and because the factory has been informed of other violations in the course of the FLA's investigations, the factory has already had the opportunity to carry out remedial action and has availed itself of this opportunity in some areas. The factory has also made additional commitments in the form of a corrective action plan it prepared with Nike, which was shared with the WRC. For each finding, we review Hansae's response, including any actions already taken and any further commitments contained in the action plan, and we discuss whether these constitute adequate remedies.

On some issues, we concluded, based on our factory visit and worker interviews in October of 2016 as well as subsequent discussions with Nike and Hansae, that the actions taken and commitments in the action plan were not sufficient to remedy the violation. We made additional recommendations for corrective action and these were conveyed to Hansae, which then responded, in some cases agreeing to the additional recommended actions, but, in others, not agreeing.

For all findings where such additional recommendations were made – all of which, it should be noted, are also supported by the FLA – we list those recommendations and report Hansae's response. In those cases where Hansae has *not* agreed to take the additional recommended actions, we have asked Nike to commit to require Hansae to do so. In the subsequent and final section of this report, we discuss Nike's response and the commitments it has made.

[10] Vietnam has ratified 20 Conventions of the ILO, of which 17 concern labour rights and working conditions (the remaining three address government employment policy and Labour Ministry administration). Five of these 17 are among the ILO's "Fundamental Conventions:" Conventions 29 (Forced Labour), 138 (Minimum Age), 182 (Worst Forms of Child Labour), 100 (Equal Remuneration), and 111 (Discrimination (Employment and Occupation)). The remaining 12 are "Technical Conventions:" Conventions 6 (Night Work of Young Persons (Industry)), 14 (Weekly Rest (Industry)), 27 (Marking of Weight (Packages Transported by Vessels)), 45 (Underground Work (Women)), 80 (Final Articles Revision), 116 (Final Articles Revision), 120 (Hygiene (Commerce and Offices)), 123 (Minimum Age (Underground Work)), 124 (Medical Examination of Young Persons (Underground Work)), 155 (Occupational Safety and Health), 187 (Promotional Framework for Occupational Safety and Health), and the Maritime Labour Convention, 2006 (MLC, 2006). As an ILO member state, Vietnam is also obligated under the ILO Declaration on Fundamental Principles and Rights at Work (1998) to comply with all "Fundamental Conventions," which additionally include Conventions 87 (Freedom of Association and Protection of the Right to Organize) and 98 (Right to Organize and Collective Bargaining), even though it has not ratified these conventions.

Finally, at the end of this section, we note an additional issue of potential concern related to employees' break periods that came to the WRC's attention shortly before this report was finalized. We are continuing to research this issue and discuss it with Nike and the FLA, and the WRC may report on it further in the near future.

A. Health and Safety

University labor codes require employers to maintain a safe and healthy work environment. The Collegiate Licensing Company (CLC) Special Agreement on Labor Codes of Conduct ("the CLC labor code"), for example, states that "Licensees shall 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 Licensee facilities."[11] Vietnamese labor law also recognizes that workers have the "right…to work in a safe and healthy environment."[12] Most buyer codes of conduct, including Nike's,[13] also include a broad protection concerning occupational safety and health. The WRC's investigation of labor practices at Hansae found, based on both offsite testimony from factory employees and onsite inspection by safety and health specialists, that, with respect to numerous issues, Hansae Vietnam fails to maintain a safe and healthy work environment and thereby violates university labor codes. These issues are detailed below.

1. Physical Collapse Caused by Excessive Temperatures and Workloads

Hansae management has engaged in a set of workplace practices – intense pressure to meet excessively high production quotas, restrictions on rest breaks, and inadequate ventilation and cooling systems – that combine to create an environment where employees frequently have lost consciousness and collapsed at their work stations.

These incidents have occurred with alarming frequency at Hansae, and, according to credible worker testimony, have been the product of:

- Overwork resulting from high production targets set by the company and its punishment and verbal harassment of workers who fail to meet these targets, which places intense and relentless pressure on employees to produce garments as quickly as possible;

- Workers foregoing part of their lunch break and/or part or all of their brief morning and afternoon rest breaks because they are unable to meet production targets if they rest;

[11] Collegiate Licensing Company, Special Agreement Concerning Workplace Codes of Conduct ("CLC Code of Conduct"), Schedule I, §II(2)(B)(6).
[12] Labor Code, Article 5 (1)(b)., ***supra***, n. 2.
[13] Nike, Inc. Code of Conduct (August 2010), available at http://www.nikeresponsibility.com/report/uploads/files/Nike_Code_of_Conduct.pdf.

- Workers refraining from drinking water during the workday and/or from using the bathroom, again as a means to avoid losing production time;

- The practice by some Hansae managers of restricting morning and afternoon rest breaks to three minutes instead of the five minutes that factory policy requires; and

- Excessive heat levels in some factory buildings.

Testimony from workers, including workers who, themselves, have fainted on the job, establishes a clear causal link between the conditions described above and the high incidence of fainting by factory employees that witnesses report.

This problem is widespread at Hansae, with workers from eight different production facilities testifying that fainting has been a regular occurrence in their workplaces. The WRC interviewed three workers, all of them women, who reported that they had recently collapsed at work – and we interviewed several additional witnesses who have personally seen other workers faint on the job. Roughly 60% of all workers interviewed by the WRC have either fainted, themselves, seen others faint, or testified that it is common knowledge at Hansae that workers sometimes faint during the workday.

One worker testified that she had witnessed other employees fainting, but had not fainted, herself. However, when the WRC contacted her again several weeks later, we learned that she had collapsed at work on the previous morning.

The exact frequency at which workers faint on the job at Hansae cannot be determined solely from worker testimony, since no individual worker has a comprehensive knowledge of the phenomenon, which almost surely varies in incidence among production buildings and seasonally, depending on ambient temperature levels and relative humidity. Moreover, as discussed below, the factory's onsite health clinic does not accurately record these incidents.

One employee, however, estimated that in the production building where he works, one to two employees have fainted *per day* during the hottest months of the year. This worker told WRC investigators that during this period, "Fainting happens every day, maybe one or two persons. They are carried to the clinic to rest half an hour, and then they [are told to] return to work." Several other workers concurred with this estimate with respect to their own production buildings. Another worker estimates that during some portions of the year several workers faint per week in her building, but that, during others, months can pass without any such incidents.

Given the large number of witnesses who testified that fainting occurs frequently at the factory, and given that the WRC identified three workers who themselves have recently collapsed, out of a sample of 35, and that many more in the sample had personally witnessed or otherwise knew of such incidents, it is clear that this problem is neither small nor isolated to a particular production

building, but has been factory-wide, affecting substantial numbers of Hansae workers during certain portions of the year.

While the WRC has previously identified cases of workers fainting at other factories,[14] the WRC has never previously encountered an incidence of physical collapse this widespread at any factory in the collegiate supply chain. Not all workers testified that they were aware of co-workers fainting, and the WRC did not obtain testimony from workers in all of Hansae's factory buildings. However, even a rate of 8.5% (three out of 35) of employees recently experiencing such incidents, in a factory of 8,500 workers, translates into, at a minimum, at least *several hundred cases* of workers collapsing unconscious at their workstations, from overwork and excessive heat, in the course of a given year at Hansae Vietnam.

The key factors contributing to fainting incidents are described in detail below.

a. Excessive Workloads and Management Pressure

i. Findings

Unrealistic Production Targets

Worker testimonies link the problem of fainting on the job to the high production targets cited by worker after worker and to the pressure that managers place on workers to meet these targets. According to almost all of the production workers the WRC interviewed, these targets are very high relative to the level of production that workers say they can achieve without exhausting themselves. One worker explained, "Some workers get so tired [from overwork] that they faint. Even when they are sick they are not allowed to go home early and this causes people to pass out."

The difficulty of the targets appears to be the result of the method by which they are set, which is directly contrary to recognized industry best practice. Company managers acknowledged to the WRC that its quotas are sometimes calculated based on the production levels achieved by the employees in the factory's sample-making area – i.e., the company's most skillful operators, working under optimal conditions – rather than, as standards of best practice dictate, the average productivity achieved by a qualified and diligent employee working without overexertion and with allowance for rest on its actual production floors.[15] Indeed, the approach Hansae uses to set

[14] See, WRC, *Factory Assessment Report, Zongtex Garment Mfg. (Cambodia)*, March 13, 2014, available at: http://workersrights.org/Freports/WRC%20Assessment%20re%20Zongtex%20%28Cambodia%29%203.13.2014.pdf.

[15] Doug Miller, "Towards sustainable labour costing in UK fashion retail" 10 (Feb. 2013) ("'[S]tandard minute values' … for the range of manual operations necessary to assemble a particular product … should normally make provision for relaxation, contingency and special allowances. In addition, the standard minute value (SMV) is based on what is known as a standard performance that is 'the rate of output which qualified workers will naturally achieve without over exertion as an average over the working day or shift, provided that they know and adhere to the

production targets has been specifically criticized by industrial relations experts as resulting in production targets that may be "unachievable both for the actual local factory conditions and for the average worker."[16]

Moreover, as workers reported and Hansae's own managers confirmed to the WRC, the company's practice has been that, if and when employees are able to meet production targets, the management will raise the quotas even further. Again, such policies are contrary to accepted standards of industry good practice, which state that expectations for the time required for a given sewing operation should be set to *meet* – not exceed – what a qualified worker can accomplish without overexertion and with allowance for adequate rest.[17]

Punitive Management Approach

Hansae management's strategy for dealing with the difficulty many workers experience in meeting these excessive production targets has been to use a combination of verbal harassment, threats of dismissal, disciplinary action, and economic sanctions to push employees to work faster. Employees across production buildings at Hansae stated that persistent failure to meet these targets results in a warning letter from the management and that multiple warning letters (three in total) can result in dismissal. The company additionally disciplined workers for failing to meet production targets by delaying scheduled wage increases, a practice that, while formally permissible under Vietnamese labor law,[18] is likewise highly punitive in nature.

Workers testified that managers and supervisors frequently shout and lob insults, often profane, at workers who fall short of the management's desired production speed. (Verbal harassment is a violation of applicable law and codes in itself and is discussed in greater detail in a subsequent section of this report.) According to worker testimony, managers tell workers they are "as stupid as a cow" and call them "bastards," among other comparable insults, or simply yell such vulgarities as "fuck you, asshole." Commonly, workers reported, these insults are combined with threats of dismissal.

Several workers testified about a manager in Building 5 who insisted that workers never yawn on the job and not bring ice to work – and who issued disciplinary warning letters, which can lead to dismissal, to any worker who failed to heed these absurd injunctions. Indeed, as discussed above,

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specified method and provided that they are motivated to apply themselves to their work' (Kanawaty: 302)."), http://www.capturingthegains.org/pdf/ctg-wp-2013-14.pdf.

[16] Id. at 8 ("[A] time and motions study, that is, the application of a range of 'techniques designed to establish the time for a qualified worker to carry out a task at a defined rate of working' (Kanawaty 1992: 243) can be carried out only in the actual factory, and is generally used by suppliers to determine a target time for a new style of a garment. Since this would normally be done in the sampling department by an experienced machinist, who may be located in a sourcing hub rather than in an actual factory, the target time may be unachievable both for the actual local factory conditions and for the average worker. For this reason, time study cannot really be undertaken until production has actually commenced, and therefore production targets cannot really be determined until after assembly begins."),

[17] Id.

[18] Labor Code, Article 125.

contrary to Nike's assertion that the worker strikes in the fall that took place at Building 5 were exclusively the result of a "miscommunication" concerning bonus payments, employees testified clearly that this manager's cruel and humiliating treatment of workers was a key precipitating factor in their job action.

The combination of threats of severe disciplinary sanctions, along with verbal abuse and shouting by managers, has created enormous and relentless stress and pressure on Hansae workers to speed production. The majority of workers testified that they had to expend great physical effort to meet targets and that, as a result, they were chronically exhausted.

Here as well, the company's approach of achieving its production goals mainly through negative incentives – verbal abuse and threats of discipline – rather than primarily through positive reinforcement, in the form of additional wage compensation, is completely contrary to well-recognized standards of industry good practice. The latter establishes that incentives to meet and, potentially, exceed targets should take the form payment of bonuses, over and above the regular wage, that are calculated based on the production levels achieved by the individual worker or by a small team of employees working in close collaboration.[19]

Hansae's existing system of productivity-based compensation, as presented by company management and reported by workers, provides little in the way of positive incentive to employees. Workers receive a bonus that is calculated on a quarterly basis according to both the productivity achieved by employees and their factory building's overall profitability for the company. This system provides little reward for the day-to-day effort of the individual worker, since the bonus can be forfeited entirely due to factors over which workers may have negligible influence, such as a reduction in orders from a buyer for a given item.

Workers in some factories reported not receiving any bonus for more than an entire year, while others reported receiving bonuses as small as 50,000 VND (USD 2.25), for the efforts of an entire quarter. It is not surprising, therefore, that workers experience the factory's methods of encouraging their productivity as almost entirely punitive in nature.

Lack of Rest Time and Restrictions on Bathroom Access

Several workers told the WRC that it has been common for them to forego toilet breaks, even when they needed to urinate, and/or to forego drinking water, in order to minimize lost production time. Some, though not all, workers testified that it was common to work through brief rest breaks and/or to work through part of their legally required lunch break (though according to workers in some buildings, the power in those buildings was cut during lunch breaks, so such work was not possible). The problem of insufficient rest was exacerbated, according to the testimony of many workers, by the management's efforts to restrict bathroom

[19] Id.

use. Worker testimony suggested that the tactics utilized varied among production buildings and included following workers into the bathroom to tell them to return to work, photographing workers entering and leaving the bathroom, and, in some cases, forbidding workers to use the toilet at all, except at times specifically designated by management. (The issue of restrictions on bathroom use, another violation of university standards, is discussed in greater detail later in this report.)

ii. Hansae Response

Hansae indicates that it recognizes the need to revise the process by which production quotas are established. The company states that it plans to replace its current method of calculating production quotas with the General Sewing Data (GSD) system,[20] which applies predetermined time values to the motions involved in garment production, with allowance for rest and fatigue.

Hansae says it will pilot the GSD system in March 2017 in Factory 3, and then implement it in the other factories in 2018. The company also has stated that it intends to introduce a new system of productivity-based compensation in 2017, but has not provided details as to how this will work.

In the meantime, Hansae says that when calculating production quotas, it now includes a "relaxation allowance … to allow the worker or operator to recover from fatigue," and an allowance for maintenance of the production equipment. Yet, while some workers interviewed confirm that their production targets have been reduced somewhat since the WRC began our assessment, others say that their quotas remain unchanged, and some employees even report hearing from supervisors that their targets will be increased.

One improvement that is widely noted by employees is that they report that they are now able to take their full five-minute rest breaks in the morning and afternoon, which was not possible before. Hansae management told the WRC that it recently had revised workers' production quotas to provide allowances for rest-time and equipment maintenance. Employees also told the WRC that they are no longer permitted to work during their meal periods.

Workers who report that their quotas have been reduced also say that they are more able to drink water and use the toilet when needed during the workday. Said one worker, "Previously we had to make 60 items in 50 minutes, but now it is 50 items per 50 minutes[,] [so] I feel less pressure now, and can freely go to the toilet and drink water."

These workers also report that the incidence of verbally abusive treatment by their supervisors has declined somewhat as well. "The supervisors and line leaders used to shout a lot," said one employee, "but there is not as much shouting now as before." Another worker reported, "Supervisors … still shout at the workers, but they no longer use bad words."

[20] GSD Corporate Ltd., Executive Summary, http://www.gsdhq.com/executive-summary/.

By contrast, those employees who say that their targets have not been reduced still report not being able to visit the washrooms when needed and facing threats of dismissal for not achieving their quotas. One such worker told the WRC, "The Target is [still] set too high. We have to finish more than 100 pieces per hour [and] [b]ecause of th[is] target, the workers don't dare to go to the toilet." The employee added, "Workers [still] don't dare to raise the[ir] voices [about the production targets], as they sometimes are threatened with dismissal."

Overall, it appears that the general level of management pressure on employees, in the combined forms of excessive production quotas, abusive treatment by supervisors, encouragement and/or acceptance of off-the-clock work, and restrictions on toilet access, have declined, to some degree, for many workers, since the release of the WRC's report in May. Perhaps relatedly, workers report that, overall, the incidence of workers fainting on the job has subsided during this time period, although this may also be the result of somewhat cooler temperatures in the intervening rainy season.

However, such improvements in company practice have not yet been applied to all areas of the factory and to all workers, and it is still not clear that quotas are being set at a reasonable level. Also, the management has not removed from workers' personnel files past disciplinary charges inappropriately levied for failure to meet quotas and has not compensated workers for past punitive delays in the implementation of wage increases.

What is needed now is for Hansae to put permanent measures into place to ensure that, year round, production quotas are set at reasonable levels, in all production buildings, and that all employees are free to avail themselves of rest and toilet breaks, and to work without excessive pressure or abusive treatment from managers and supervisors. Management must also remedy past inappropriate punitive action taken against workers for failure to meet production quotas.

iii. WRC Additional Recommendations

The WRC recommends that Hansae:

- Revise its production quotas according to the average productivity of a qualified operator working on the factory's actual production floor without overexertion and with allowance for rest;
- Remove from employees' personnel files all prior instances of discipline for failing to meet production quotas;
- Compensate workers for delayed wage increases imposed for failure to meet quotas; and
- Incentivize productivity through positive measures (bonuses, etc.) that are awarded based on individual or small-group performance.

In addition, see below for discussion of other measures to prevent work during rest and meal periods and to end verbal abuse of employees by supervisors and managers.

iv. Hansae Response to WRC Additional Recommendations

Hansae has agreed that "should the factory find disciplinary records for not reaching production target, the factory will remove such records" from workers' personnel files. However, the company has made no other commitments in response to the WRC's additional recommendations."

b. Excessive Workplace Temperatures

i. Findings

Another key contributing factor to the fainting incidents, and a health and safety violation in itself, is the high heat levels in Hansae's factories. High temperatures, along with high levels of relative humidity, both of which are prevalent in Southern Vietnam for much of the year, can, if not addressed through adequate cooling and ventilation measures, lead to or exacerbate symptoms such as dizziness, headaches, and fainting episodes.

Vietnam's Ministry of Health has established standards for acceptable workplace temperatures which require a maximum temperature of 34 degrees Celsius (93 degrees Fahrenheit) for employees engaged in light labor, 32 degrees Celsius (90 degrees Fahrenheit) for workers performing medium labor, and 30 degrees Celsius (86 degrees Fahrenheit) for employees engaged in heavy labor – all of which are involved in some aspects of apparel manufacturing.[21]

The ILO/IFC Better Work Vietnam factory inspection program, which Nike utilizes to audit its suppliers in the country, has indicated that, under Vietnamese health regulations, 32 degrees Celsius (89.6 degrees Fahrenheit), the limit prescribed for medium labor, is the maximum legal temperature permitted overall for compliance.[22] However, some jobs at Hansae that involve continuous work in a standing position, such as ironing garments, qualify as heavy labor, for which the maximum limit of 30 degrees Celsius (86 degrees Fahrenheit) should apply.[23]

Most workers interviewed by the WRC, across factory buildings, testified that temperatures inside Hansae's production buildings are often very hot, especially during the late spring and early summer months, with one worker reporting to have personally viewed thermometer readings as high as 37 degrees Celsius (99 degrees Fahrenheit), well above any of the legal maximums.

[21] Ministry of Health Decision 3733/2002/QĐ- BYT.
[22] Better Work Vietnam, *Guide to Vietnamese Labour Law for the Garment Industry* 52 (ILO: 2016).
[23] Ministry of Health Decision 3733/2002/QĐ- BYT.

None of Hansae's facilities, with the exception of the company's administrative offices where its top managers work, currently have air conditioning. Four of Hansae's factory buildings are equipped with evaporative cooling pad systems,[24] a less expensive alternative to air-conditioning, which operate by introducing outside air that has been moistened (and, thereby, cooled) by passing through water-saturated pads.

However, although evaporative cooling pad systems are capable of lowering indoor temperatures, they also significantly increase indoor relative humidity levels, and are much less effective in cooling indoor environments that are already humid.[25] In very hot and humid environments such as that of Southern Vietnam, evaporative cooling systems are of very limited utility in ensuring workers' safety and health, since the additional moisture they put into the indoor atmosphere can counteract the body's ability to self-regulate its temperature through the evaporation of perspiration from the skin.[26]

During the October 13 and 14 visit to the factory, the WRC's safety and health experts measured ambient temperatures and relative humidity inside and outside the facility. The table below presents the averages of 62 temperature and relative humidity ("R.H.") readings that the WRC's experts recorded in seven different factory buildings, along with a comparison of indoor and outdoor temperatures and humidity levels at each factory. The table also notes which of these factories are equipped with evaporative cooling systems. The WRC conducted our onsite health and safety assessment of the factory in October, during the coolest part of the year, when average high temperatures are four degrees Celsius (seven degrees Fahrenheit) cooler than in April, the hottest month of the year.[27]

[24] Evaporative cooling pad systems reduce temperatures by drawing air through vertically mounted irrigated fiber pads. *See, e.g.,* Brian Strobel, Richard Stewart and Ted Short, "Evaporative Cooling Pads: Use in Lowering Indoor Air Temperature," fact sheet (Ohio State Univ. 1999).
[25] See, e.g., A. Bhatia, "Principles of Evaporative Cooling Systems" (2012) ("[E]vaporative coolers have some limitations and disadvantages: 1) Evaporative coolers are not effective in the humid regions. 2) High humidity conditions decreases the cooling capability of the evaporative cooler. 3) The air supplied by the evaporative cooler is nearly 100% humid. Very humid air prevents the evaporative cooling of sweaty or wet skin.").
[26] Id.
[27] World Meteorological Organization, "World Weather Information Service: Ho Chi Minh City, Vietnam," http://worldweather.wmo.int/en/city.html?cityId=309.

Table 1: Temperature and Relative Humidity in Hansae Vietnam Factories

Date	Factory	Average Temp. $^0C/^0F$	Average R.H.%	Inside Temp.^{0} > Outdoor Temp.	Inside R.H.% > Outdoor R.H.%	Evaporative Cooling System
13-Oct	3	31.1/88.0	69.7	No	Yes	Yes
13-Oct	5	**32.5/90.5**	64.0	Yes	Yes	No
13-Oct	11	29.6/85.3	71.2	No	Yes	Yes
13-Oct	12	**33.0/91.4**	57.5	Yes	No	No
13-Oct	Outdoor	31.5/88.7	61.4	N/A	N/A	N/A
14-Oct	7	**33.9/93.0**	58.4	Yes	Yes	No
14-Oct	9	31.8/89.2	61.5	No	Yes	No
14-Oct	10	**34.8/94.6**	55.7	Yes	Yes	No
14-Oct	Outdoor	34.1/93.4	50.5	N/A	N/A	N/A
Regulatory	Maximum	32.0/89.6	80.0	N/A	N/A	N/A

Notes: ">" = greater than; Temperatures in **bold** exceed maximum compliance limit specified by the ILO/IFC Better Work Vietnam program.[28]

As this table shows, the WRC's specialists found that, even during this relatively cooler period of the year, average interior air temperatures exceeded the ILO/IFC Better Work Vietnam program's maximum legal compliance limit of 32 degrees Celsius in four of the seven Hansae factories inspected. Moreover, with respect to individual temperature readings, heat levels in six out of seven (86%) factories inspected over two days also exceeded the compliance limit in at least half of the work areas in these factories where measurements were taken.

Finally, the factories' evaporative cooling pad systems appear to have only limited effectiveness. Temperatures inside those factories which have evaporative cooling systems were, on average, only 1.5 degrees Celsius (2.7 degrees Fahrenheit) lower than outside temperatures, while average humidity levels were 8-10% higher inside these buildings than they were outside.

As noted, average outdoor temperatures during the hot season are significantly higher (by four degrees Celsius/seven degrees Fahrenheit) than during the fall, and the factories' evaporative cooling systems are of only marginal effectiveness in reducing indoor temperatures below outdoor levels. Yet average temperature readings inside the majority of the Hansae factories that the WRC visited in the fall already exceeded the legal compliance limit, and, even in factories already equipped with evaporative cooling systems, were only 1.7 degrees Celsius/3.1 degrees Fahrenheit below the legal limit at that time. It is safe to conclude that temperature levels in many of Hansae's facilities, during a large part of the year, even with evaporative cooling

[28] Better Work Vietnam, *supra*, n. 16 at 52.

systems, will violate the relevant legal maximum and, as a result, contribute to incidents of physical collapse among Hansae workers.

ii. Hansae Response

Following the release of the WRC's May report, Hansae announced plans to install evaporative cooling pad systems in the factory buildings that are not currently equipped with them over the course of the coming year. As discussed above, however, these systems, if they are comparable to those already being utilized by Hansae, will be insufficient to lower temperatures in the factory buildings below the legal maximum during the hotter months of the year (and, moreover, will significantly increase humidity levels inside these facilities, counteracting to a great extent any benefits for worker health and safety of any temperature reductions achieved).

iii. WRC Additional Recommendations

The WRC recommends that Hansae adopt whatever engineering controls are necessary to consistently maintain temperatures inside its factories at or below the legal compliance limit of 32 degrees Celsius (90 degrees Fahrenheit) and at or below 30 degrees Celsius (86 degrees Fahrenheit) where heavy labor, such as ironing, is performed. Given that (1) indoor temperatures in the factories were recorded to exceed legal compliance standards during a relatively cool period of the year, and (2) evaporative coolers have not proven effective in remedying these problems at Hansae and, moreover, can exacerbate indoor humidity, air conditioning will be required unless an effective alternative can be demonstrated.

iv. Hansae Response to WRC Additional Recommendations

Hansae states that "the factory will continue to monitor the workshop temperature and continue the plan to install the [evaporative] water cooling system[s] at all factories. In response to the WRC's concerns regarding the likely inefficacy of these measures, Hansae states it will "contact … [the] supplier before installing water cooling system[s] for the other factories to make sure [of their] functional efficiency" and "explore other options to reduce working temperature such as [a] plan to rearrange the layout to provide more fans at the workplace."

The WRC remains concerned that Hansae's response does not include a clear commitment to take whatever measures are necessary to consistently maintain temperatures inside its factories at or below the legal compliance limit. Ultimately, we believe, air conditioning, which is already provided in the offices of the factory management, will be required throughout the complex's production buildings.

c. Treatment and Monitoring of Fainting Incidents at Factory Health Clinic

i. Findings

The WRC found that Hansae failed to appropriately respond to and monitor cases of workers collapsing on the job. According to testimony from multiple workers, those who fainted were carried by their arms and legs to the factory's onsite health clinic, a 10-bed facility staffed by one physician and four nurses, or were led there if they regained consciousness quickly enough. Once conscious, employees who had fainted were reportedly allowed only a brief respite – reportedly, 30 minutes – before being forced to return to work.

Employees told the WRC that workers who asked to be allowed to go home after fainting on the job were typically denied permission to leave the factory. Requiring workers who have fainted and collapsed on the job to return to high-stress physical labor, in a hot factory, half an hour after they regain consciousness, demonstrates a deeply disturbing disregard for the health, safety, and general wellbeing of workers, an attitude also reflected in other practices of Hansae's management (see the section below concerning sick leave).

The factory also failed to appropriately monitor and record fainting incidents. For example, in July 2016, the clinic received at least two employees who had fainted in Factories 5[29] and 11. The observation that they had fainted was recorded in the clinic's handwritten logbook of worker visits from each factory building. However, when the incidents in Factories 5 and 11 were entered into the clinic's summary charts of illnesses and injuries for the same month, neither entry mentioned that the employee involved had fainted. The fainting incident in Factory 5 was listed as a case of "hypoglycemia" (low blood sugar) and the fainting incident in Factory 11 was listed as a "digestive disorder."

The WRC received credible reports from offsite worker interviews that other workers fainted at their work stations in Factory 5 in 2016 and were then taken to the facility clinic for treatment, including one worker in March and another worker in July. However, a page-by-page review of the 2015 and 2016 clinic logbooks showed only one entry for a fainting incident – the July 2016 fainting which was listed as a case of "hypoglycemia" on the summary charts. The March 2016 fainting incident does not appear on the Factory 5 logbook at all. A similar review of the 2015 and 2016 logbooks for Factory 12 also did not list any fainting incidents in over 21 months.

Based on the limited evidence available, there is a substantial discrepancy between the health clinic's records of employees having fainted on the job and the number of incidents that have actually occurred. As shown above, some fainting incidents are simply not recorded by the clinic. Moreover, those incidents of fainting that are recorded appear to end up being

[29] Building 5 was the site of strikes in October and November of 2015 and is a primary location of Nike's production at Hansae.

misclassified. This means that the actual total number and exact causes of individual fainting cases cannot be precisely known.

One key component of an effective occupational health and safety (OHS) program is ongoing surveillance of worker injuries and illnesses to identify and investigate the cause of these injuries and illnesses. Incidents that are not accurately recorded cannot be investigated as to their actual causes, nor can effective actions be taken to prevent their reoccurrence.

ii. Hansae Response

Hansae informed the WRC that, in early October 2016, the company conducted training for the staff of its onsite health clinic to reiterate the need to record all accidents and illnesses that occur in the factory.

iii. WRC Additional Recommendations

The WRC recommends that Hansae ensure that:

- Employees who faint on the job as the result of environmental and work-related factors (temperature, humidity, overexertion, exhaustion, etc.) are permitted to seek outside medical treatment and/or return home for the remainder of the workday with no reduction in their regular pay or bonuses for attendance and productivity; and
- The factory health clinic accurately records all incidents involving workers fainting on the job, with a clear indication that the affected employee collapsed and/or lost consciousness in the course of the incident.

iv. Hansae Response to WRC Additional Recommendations

Hansae says it will "revise the current monthly sickness reports to improve tracking of all illness and injuries, including type, workshop, time, disease, root cause and improvement opportunities," and "provide training for [its] clinic and safety team for proper implementation and recording." Assuming that these steps result in accurate recording of the fainting incidents, the WRC considers them to be adequate.

However, Hansae must also ensure appropriate treatment for workers affected by these incidents. Hansae has not yet agreed to the WRC's recommendation in this regard.

2. Fire Safety Violations

a. Unsafe Exit Doors and Exit-ways

i. Findings

Multiple deficiencies were identified with respect to employees' safe egress from factory buildings in case of emergency, thereby violating Vietnamese workplace safety standards.[30] Some employees interviewed by the WRC reported that the company padlocks exit doors in the factory buildings where they work during the day. On the days when the WRC conducted its inspection at Hansae, the exit doors were not locked, but some were found to be equipped with locking bolts or hasps (eyelets) that could permit them to be padlocked, creating a fire safety hazard.

It was also found that certain exits in the factory's packing section and accessory warehouse consisted of sliding doors that cannot open outward and were not kept open during working hours. Moreover, two other exit doors, one in Factory 5 and the other in a stock warehouse, opened inward, also creating a hazard in case of an emergency. Finally, inside some buildings, including in the warehouses for Factories 9 and 12 and the production areas in Factories 2, 6 and 7, the aisles that would need to serve as employees' routes to the exit doors in case of an emergency were found to be obstructed, also creating a safety hazard.[31]

ii. Hansae Response

The WRC recommended that the bolts and hasps on the exit doors be removed to prevent them from being locked in ways that could prevent egress, and noted that this was corrected on some, but not all, of the doors that were inspected. In Factory 12, a Hansae manager repeatedly and forcefully stated to one of the WRC's safety experts that employee theft ("security") was as much of a priority as worker safety, and that the hasps were necessary precisely so that the exit doors could be locked against unauthorized egress by employees. The manager's attitude illustrates vividly why worker safety requires that devices which enable locking of exit doors must always be removed.

With respect to the sliding doors in the factory's packing section and accessory warehouse, Hansae attempted to address this problem by removing one of the doors and securing the other in an open position during working hours. In addition, concerning the two exit doors in Factory 5 and the stock warehouse that opened inward, Hansae subsequently modified these to open outward. Finally, Hansae removed the obstructions inside the warehouses for Factories 9 and 12,

[30] Labor Code, Articles 138 and 147; Standards TCVN 439/XD-CSXD; TCVN 2622 on Fire Prevention and Protection for Buildings and Structures - Design Requirements (1995), Article 7.24 and TCVN 3890:2009 on Fire Protection Equipment for Construction and Building – Providing, Installation, Inspection, Maintenance (2009), Article 10.1.5.
[31] Standards TCVN 2622, Article 7.24; and TCVN 3890:2009, Article 10.1.5.

and on the production lines in Factories 2, 6, and 7 that blocked the aisles that would need to serve as employees' routes to the exit doors.

iii. WRC Additional Recommendations

The WRC recommended that Hansae ensure that all emergency exits are usable by employees in case of emergency by:

- Requiring that all doors in its factories open outward and are kept free at all times from any bolts or hasps that could obstruct their use as an exit; and
- Maintaining the aisles leading to the exit doors free from obstruction in all factory buildings.

iv. Hansae Response to WRC Additional Recommendations

Hansae has stated that the factory "will install the proper locking devices and remove all eyelets [hasps] from the exit door[s] so that they cannot be fitted with padlock[s]." The removal of hasps is a positive step by Hansae, but the factory must also remove any bolting that could interfere with panic bars on the exit doors.

The WRC further recommends that Hansae make a firm commitment to remove from any door in any exit or exit-way any device or mechanism that could inhibit egress at any time. The WRC notes that Hansae is a large and well-established manufacturer with global operations and undoubtedly has the capacity to equip its factories with exit doors that have the proper equipment (panic bars, etc.) to permit immediate egress by workers in case of emergency, while preserving the factory's ability to prevent unauthorized entry to these buildings.

b. Inadequate Emergency Lighting and Signage

i. Findings

Several safety hazards were found with respect to the lights and signage required by law to be provided to direct and enable workers to leave their factory buildings safely in case of an emergency.[32] Two of the emergency lights in Factory 5 failed to function; the evacuation map posted in Factory 7 lacked necessary markings; exit signs in Factory 11 lacked illumination; and, in the main material warehouse, emergency lighting was improperly installed.

[32] Id.

ii. Hansae Response

Hansae corrected these problems; however, in Factory 11, the lighting on one exit sign continued to rely on a patched electrical cord that was attached to a wall outlet, rather than being hardwired.[33]

iii. WRC Additional Recommendations

The WRC recommended that Hansae ensure that all lighted exit signs are illuminated using well-maintained circuitry hardwired into the factory's main electrical power.

iv. Hansae Response to WRC Additional Recommendations

Hansae stated that "the factory will ensure available energy for emergency light and exit signs (electrical system from wall outlets and back-up battery) in an emergency[,] … will remove patched electrical cables[,] [and] … will conduct the electrical safety training for relevant employees to ensure the electric wires are not being patched." The WRC observes however, that Hansae is not committing to hardwire the emergency signage and lighting, and that this, along with back-up battery power, is essential to ensure the functioning of this equipment at all times.

c. Fire Extinguishers

i. Findings

Contrary to legal requirements,[34] in the main material warehouse, access to fire extinguishers was blocked by boxes and other items. Also, in the parking area for workers' motorcycles, which is tightly packed on a daily basis with more than 600 gas-powered vehicles, there are only two small fire extinguishers. Finally, in the warehouse for Factory 2, one of the fire extinguishers was missing from its designated location.

ii. Hansae Response

Although Hansae has cleared the obstructions blocking access to the fire extinguishers in the warehouse, it reportedly has added only one additional fire extinguisher in the parking area. Moreover, in Factory's 2 warehouse, rather than replace the missing fire extinguisher, the company simply removed the markings designating the extinguisher's former location.

iii. WRC Additional Recommendations

The WRC recommends that Hansae ensure that all areas of its premises have the legally required complement of fire extinguishers and that access to these is maintained free of obstruction.

[33] Labor Code, Articles 138; Standards TCVN 2622-1995 and TCVN 439/BXD-CSXD.
[34] Standard TCVN 3890:2009.

iv. Hansae Response to WRC Additional Recommendations

Hansae states that with respect to the missing fire extinguisher in Factory 2, the "[c]urrent number and [relative] distance[s] of [the other] fire extinguisher[s] compl[y] with local law," and that, regarding fire safety in the parking area, the "[d]istance from [the] fire extinguisher … [at the] workshop doors to [the] parking [area] is enough and complies with the law." If the company is able to demonstrate that this assertion is accurate, then Hansae's response is adequate. If it is not accurate, then additional fire extinguishers must be added.

d. Flammable Gases and Liquids

i. Findings

On inspection of the factory's cleaning rooms, the WRC found that, in violation of fire safety standards,[35] spraying of Class 1B flammable acetone was being conducted immediately below non-explosion-proof lighting fixtures. Moreover, the rooms lacked local exhaust ventilation for the spraying, which is needed to prevent the build-up of an airborne mist of flammable liquid that exposes workers to explosion and fire hazard. In addition, the WRC found that 30 to 90 liters (9 to 24 gallons) of this flammable liquid were being stored improperly[36] in the cleaning rooms in open plastic totes, rather than being secured in flameproof cabinets.

The WRC also found other hazards related to the handling of flammable fuel that contravened Vietnam's workplace safety regulations.[37] Butane gas cylinders supplying the kitchen for the employee canteen adjacent to Factory 6 are located in a separate room next to the kitchen, which is accessed from outside the building, through a door that, because it is kept locked, cannot be entered quickly in the event of a fire. While most of the gas lines from this room to the kitchen are equipped with a single manual shut-off button which can stop the flow from these cylinders in case of emergency, the gas line from one of the cylinders is not connected to the shut-off mechanism.

In addition, the tank that holds diesel fuel for Hansae's back-up generator, which is located in the facility's fire pump house, lacks any labeling designating its capacity or its hazardous contents. Moreover, the tank has no secondary containment apparatus or diking to capture spills.

ii. Hansae Response

Hansae informed the WRC that, with respect to the open air spraying of acetone in the cleaning rooms, it would "set up a small spray booth [with] local exhaust ventilation [LEV]" and

[35] Labor Code, Articles 138 and 147; Decree 26/2011/ND-CP; Standard TCVN 5507:2002.
[36] Labor Code, Articles 138 and 147; Standard TCVN 5507:2002; Decree 68/2005/ND-CP.
[37] Labor Code, Articles 137-138, 147 and 149; Circular 04/2014/TT-BLDTBXH.

"measure acetone concentration inside the enclosure hoods to prevent build-up of potentially toxic and flammable atmospheres in the room."

Hansae also stated that it would "review the current chemical (acetone) storage practice in the cleaning room to ensure just enough [acetone is stored there] for daily use," and that these chemicals are stored with "adequate secondary containment, [in a] proper storage area, [with] low risk of fire."

Hansae also committed to require its food service contractors to ensure that "all gas lines in the canteen go through the manifold connected to the shut-off button," and that the "gas storage … [room can] be opened to be accessed quickly in the event of fire." In addition, the factory added secondary containment for the fuel tank for the back-up generator in order to capture any potential spills.

iii. WRC Additional Recommendations

The WRC recommended that Hansae, in its cleaning rooms, ensure that *all* acetone spraying is conducted in spray booths equipped with LEV, prohibit open air spraying completely, and store all flammable liquids inside approved or listed metal flammable containers with adequate secondary containment capacity, tight sealing doors, and proper electrical grounding.

iv. Hansae Response to WRC Additional Recommendations

Hansae has clarified that it will ensure that all acetone spraying is conducted in spray booths. Assuming that these are equipped with LEV, and that flammable liquids are kept inside approved or listed metal flammable containers with adequate secondary containment capacity, tight sealing doors, and proper electrical grounding, this should resolve the outstanding issues in this area.

e. Hot Work

i. Findings

During an inspection of Hansae it was found that a lit welding torch was left unattended in Factory 5, creating a fire hazard, and indicating that the facility lacks adequate procedures for hot work (i.e., activities involving risk of igniting flammable materials).[38]

ii. Hansae Response

Hansae subsequently issued reminders to employees concerning 'hot work' and, specifically, to disconnect welding torches from their power sources when not in use. This response was adequate.

[38] Standard TCVN 6713:2013, Article 5.2.

f. Smoking Area

i. Findings

Due to the lack of designated smoking areas, workers were found smoking cigarettes directly outside of Hansae's materials warehouse, creating a fire safety hazard.[39]

ii. Hansae Response

In response to the findings, Hansae subsequently established a designated smoking area, with a large urn ashtray.

iii. WRC Additional Recommendations

The WRC observed that the smoking area Hansae provided was not equipped with any seating, reducing the likelihood that it will be used consistently by workers who smoke, and recommended that Hansae improve the employee smoking area by equipping them with chairs.

iv. Hansae Response to WRC Additional Recommendations

Hansae stated that it has provided seating for the smoking area, which, if confirmed, would resolve this issue.

g. Exposed Electrical Wiring

i. Findings

Hansae's backup fire pump and the LEV system for the spot-cleaning machinery in Factory 10 were noted to have exposed wiring, a potential electrical hazard.[40]

ii. Hansae Response

Hansae stated that it would "correct the issue … [by] replac[ing] [the exposed wiring with] new electric wire o[n] [the] backup electric fire pump," and, with respect to the LEV system with exposed wiring, "will replace the exposed wires … [with] secured ones."

The company also committed that it would "check[] about electrical safety standard[s] at similar areas and conduct … electrical safety training for relevant employees to prevent the incidents from recurring." This response, if implemented, is adequate, assuming that it ensures that all wiring in the factory is properly guarded.

[39] Standards TCVN 2622, Article 7.24; and TCVN 3890:2009, Article 10.1.5.
[40] Labor Code, Articles 138 and 147; Standard TCVN 11-48 /1996; Decrees 35/2003/ND-CP; and 105/2005/ND-C.

3. Hazardous Chemicals

a. Inadequate Ventilation of Areas where Hazardous Chemicals Are Used

i. Findings

The WRC found that the cleaning rooms where liquid acetone is sprayed in the open lacked effective exhaust ventilation (LEV) systems to capture the resulting vapor. In some cases, the LEV systems that had been installed were turned off during the workday, and, in other cases, these systems did not function when turned on.

While the factory has installed wall-mounted fans to extract air from the room, these do not provide sufficient ventilation to meet applicable regulatory standards.[41] Since employees in the cleaning rooms cannot be exposed to hazardous levels of airborne chemicals above regulatory limits, LEV systems must be functional and effective.

ii. Hansae Response

Hansae committed that it would "check and repair the … [existing LEV system] to ensure it is fully functional." As discussed, the company also indicated that it will "set up a small spray booth [with] local exhaust ventilation" and "measure acetone concentration inside the enclosure hoods to prevent build-up of potentially toxic and flammable atmospheres in the room."

iii. WRC Additional Recommendations

The WRC recommends that Hansae also:

- Remove existing LEV systems that are nonfunctional or ineffective from the cleaning rooms; and
- Ensure that all acetone spraying is conducted in spray booths equipped with LEV.

iv. Hansae Response to WRC Additional Recommendations

As noted, Hansae has agreed to ensure that all acetone spraying is conducted in spray booths. Assuming that these are equipped with LEV that is maintained in a functioning condition, this step should adequately address the relevant findings.

[41] Labor Code, Articles 138 and 147; Decree 26/2011/ND-CP; Standard TCVN 5507:2002.

b. Unsafe Chemical Disposal, Storage, and Labeling

i. Findings

In the printing area of Hansae's Factory 5, it was found that, in violation of safety regulations:[42]

- Chemicals were kept in soft drink bottles, without identifying labeling, instead of in proper containers; and
- Cloths that had been used to clean the printing plates during the cleaning process in Factory 5, which were contaminated with hazardous chemicals, were not separated from ordinary trash in disposal.

ii. Hansae Response

Hansae provided a hazardous waste bin to dispose of the contaminated cloths. The company also indicated that it would provide secondary containers for the printing chemicals and "remind workers to post the name label [for chemicals] in Vietnamese language." Assuming the labeling and storage measures are implemented, this would adequately address the issue.

4. Hazardous Machinery

a. Inadequate Machine Guarding

i. Findings

Hansae violated applicable safety standards[43] by failing to equip or maintain many of the machines in the factory with the necessary devices to avoid injuries to employees. These hazards included:

- Missing, poorly maintained or improperly positioned needle guards on many sewing machines in Factories 5 and 6;
- Eye guards on high-speed machines that are too flimsy to protect workers from injury;
- Exit guards on other high-speed machines in Factories 2 and 6, and on over-lock machines in Factories 6 and 12, that are non-functional;

[42] Decree No. 38/2015/ND-CP on Management of Waste and Discarded Materials, Article 16; Circular No. 04/2012/TT-BCT on Category Regulations and Chemical Labelling (2012), Article 7; Environmental Law 55/2014/QH13.
[43] Law No. 84/2015/QH13, Articles 7, 15, 72, 73, and 74; Article 7.4. Labor Code, Articles 138 and 147; Circular 05/2014/TT-BLDTBXH; and 06/2014/TT-BLDTBXH.

- Pulley guards that are inadequate or missing entirely on the Kansai machines and standing over-locking machine in Factories 2 and 10;
- Improper guarding on at least three buttoning machines in Factory 8;
- Grinding wheels in some of the maintenance shops that did not have necessary shields, guards, or tool rests;
- Barrier guarding on the belt drive of a snap machine that was partially missing, leaving exposed hazard points; and
- Ironing plates that are missing or not used.

ii. Hansae Response

Hansae stated that the factory had installed the necessary needle and eye guards on the sewing machines, exit guards on the high-speed machines, pulley guards on the Kansai machines and standing over-locking machine, and proper guarding on the buttoning machines, all of which was verified, along with provision of sufficient ironing plates.

Hansae subsequently also reported that it had installed a full cover for the belt drive of the snap machine, and proper guarding for the grinding wheels. Assuming these measures are also verified, the company's response is adequate.

b. Hazards from Compressed Air Guns

i. Findings

The compressed air guns used for removing spots in the cleaning rooms in Factories 3, 5, 7, 9, 10, 11, and 12 operated at 4-6 kg./cm.2 of pressure (56-85 psi), and lacked pressure reducers or relief devices to lower their pressure to 30 psi or less, posing injury to workers.[44]

ii. Hansae Response

Hansae committed to "install the pressure reducer device[s] for compressed air guns … [in the] cleaning room to reduce [the] pressure of [the] compressed air guns." This measure will adequately address the issue.

[44] Labor Code, Articles 138 and 147.

c. Unsecured Machinery

i. Findings

Grinding wheels and drill presses used in the factory were not secured to the surface on which they were operated, creating risk of accidents from tipping over or other movement, and violating safety standards.[45]

ii. Hansae Response

Hansae committed that "mechanics in all [the] factories will check and install the ground base[s] for [the] drill presses to ensure [they] will not tip over onto workers." It was unclear, however, whether the company's response included a commitment to secure the drill presses and grinding wheels to the tables and benches on which they are operated, or, where they are used on a pedestal, to bolt the pedestal to the floor, all of which are necessary to fully correct this hazard.

iii. WRC Additional Recommendations

The WRC has recommended that Hansae bolt all drill presses and grinding wheels to some form of permanent mounting, such as a platform or table, or, if these are used on a pedestal, to bolt the pedestal to the floor. Alternatively, if the equipment must be moveable, it should be bolted to a stable moveable platform.

d. Failure to Post Information on Safe Operating Procedures

i. Findings

Hansae violated legal standards by failing to post necessary information for employees' safe operation of several pieces of machinery in the factory, including the laser, pocket-making, printing, and hot-pressing machines, as well as the fabric-testing machines in Factory 8, and the needle detector machines in Factories 2 and 6.[46]

ii. Hansae Response

This problem was corrected by the company, which posted the necessary safety information.

e. Failure to Maintain Assignments of Tag Attaching Guns

i. Findings

While each of the tag attaching guns was labeled with the name of the worker assigned to use it, other employees also used these devices, creating a safety hazard from risk of transmission of

[45] Id.; Circulars 05/2014/TT-BLDTBXH; and 06/2014/TT-BLDTBXH.
[46] Law No. 84/2015/QH13, Articles 18 and 19.

bloodborne diseases.[47] However, the tagging guns were being using by other workers in Factory 2."

ii. Hansae Response

Hansae corrected this issue by providing training for employees on the need to avoid the practice of using tagging guns that had been assigned to other workers, and committed to ensure that workers sign-out these devices in a log before use.

5. Electrical Hazards

a. Findings

The WRC found that Hansae failed to prevent electrical hazards to employees that violated Vietnamese safety standards.[48] Specifically, with respect to the electric water pumps equipping the emergency eyewash stations, this machinery is:

- Powered from electrical outlets that are not equipped with ground fault circuit interrupters (GFCIs);
- Located directly below the eyewash station and above flooring that lacks a drain to prevent accumulation of water; and
- Has exposed wiring.

b. Hansae Response

Hansae committed that "the factory will install ground fault circuit interrupt (GFCI) electrical outlets for plugging in [the] emergency eyewash station to prevent electric shock to workers." The company also stated that it "will cover the electric pump from the eyewash station to keep water from contacting energized equipment and install carpet [below the station] to capture any water stream." However, such carpet can become wet, presenting an electrical hazard.

c. WRC Additional Recommendations

The WRC recommends that Hansae additionally install anti-slip mats under the emergency eyewash stations and ensure prompt clean-up of any excess water on the flooring.

[47] Id.
[48] Labor Code, Articles 138 and 147; Standard TCVN 11-48 /1996; Decree 35/2003/ND-CP; Decree 105/2005/ND-CP.

d. Hansae Response to WRC Additional Recommendations

Hansae has indicated that it will "have [a] schedule to replace [the] carpet [under the eyewash station] to ensure [a] dry working area." The WRC continues to recommend that anti-slip mats be used in this area as a safer alternative to carpeting.

6. Ergonomics

a. Findings

The WRC found that sewing machine operators, the largest single classification of employees at Hansae, work throughout the day seated on bare wood benches that lack any back or arm support, seat padding, or means of movement or vertical adjustment. The operators' only means of making this seating more comfortable is to place cushions on the benches.

Extended use of such ergonomically inadequate seating, for hours at a time on a nearly everyday basis, has long been associated with musculoskeletal injury to the back and shoulders among garment workers.[49] For this reason, meeting basic standards for protection of workers' health and safety[50] requires provision of seating that meets minimum ergonomic standards by being equipped with back and arm rests, padded seats, casters and swivel, seat height and back angle adjustment, and lumbar support. Provision of proper seating is recognized to reduce the incidence of musculoskeletal injury and pain among garment workers.[51]

The WRC also found that employees in Hansae's inspection, ironing, and packaging operations faced ergonomic risks of musculoskeletal injury as well from working while standing for prolonged periods of time. Although the company has provided some of these workers with rubber slippers to wear or anti-fatigue floor mats for their work areas, addressing these risks effectively requires conducting individual job risk assessments.

b. Hansae Response

With respect to employees who work while standing in the Hansae's inspection, ironing, and packaging operations, Hansae said that it will "review the current risk assessment for all operations with prolonged standing and explore options to reduce the risk of musculoskeletal injury in addition to the current ergonomic practice ([taking a] short break and exercise[ing] twice)," and would continue to "provide [soft] rubber slippers … to minimize the risk of standing

[49] See, e.g., Nag, A., H. Desai, and Nag Pk. "Work Stress of Women in Sewing Machine Operation." *Journal of Human Ergology* 21(1):47-55 (1992).
[50] Labor Code, Articles 137, 138 and 148.
[51] Herbert R, Dropkin J, Sivin D, Doucette J, Kellog L, Bardin J, Warren N, Kass D, and Zoloth S. "Impact of an Ergonomics Program Featuring Adjustable Chairs on Upper Extremity Musculoskeletal Symptoms Among Garment Workers" (1997).

jobs." With respect to these positions, Hansae's response, if properly and thoroughly implemented, is adequate.

With respect to the issue of inadequate seating for the factories' sewing machine operators, Hansae committed only to "consider [whether] to provide the chair with back rest for the workers." Since a backed adjustable chair is a minimum requirement for ergonomic safety for sewing machine operators, Hansae's failure to provide a firm commitment of remediation is of significant concern.

c. WRC Additional Recommendations

The WRC has reiterated its recommendation that Hansae provide seating that meets minimum ergonomic standards by being equipped with back and arm rests, padded seats, casters and swivel, seat height and back angle adjustment, and lumbar support. Hansae revised its response to state that it "will choose a suitable supplier to provide the proper chair for sewing workers."

However, it is unclear from this response whether Hansae now accepts that the proper chair to be provided is one that meets minimum ergonomic safety requirements. Since much of the workforce is affected by this situation, and since the cost of the required chairs, which the WRC estimates to be roughly USD 1 million, gives Hansae a significant financial disincentive to comply, it is especially important for Nike to secure and enforce a firm and detailed commitment from the factory on this issue. The WRC has recommended that Hansae inform the WRC, FLA, and Nike of the specifications of the chairs it proposes to provide, before they are purchased, so that it can be confirmed that this seating meets minimum ergonomic requirements.

7. Personal Protective Equipment

As detailed below, the WRC found that Hansae violated safety standards[52] by failing to provide necessary personal protective equipment to factory workers and ensure its consistent use.

a. Respirators

i. Findings

Significantly, the factory was found to have failed to provide workers in cleaning rooms who spray liquid acetone to clean stains with NIOSH[53]-approved respiratory protection that has been properly selected, maintained, and replaced based on competent assessment and monitoring of exposure levels.

[52] Labor Code, Articles 138, 147, 149, and 150; Law No. 84/2015/QH13, Articles 7, 15, 72-74; Decrees 3733/2002/QD-BYT and 26/2011/ND-CP; Circulars 27/2013/TT-BLDTBXH and 04/2014/TT-BLDTBXH; and Standards TCVN 5507:2002 and TCVN 3985:1999.
[53] National Institute for Occupational Safety and Health, a division of the U.S. Center for Disease Control and Prevention (CDC).

Currently, the factory supplies the cleaning room workers with single-use filtering facepiece masks with a charcoal layer. The masks are not NIOSH-approved, which is the standard mark of quality and effectiveness for international manufacturers of industrial respirators, nor was their selection based on monitoring of air quality in the cleaning rooms and/or international standards for respirator use.

Moreover, the facepieces are not stored in airtight containers, so they continue to become saturated with organic solvents in the cleaning room while not in use. Finally, the factory lacks a set schedule for replacing the masks. These problems are of particular significance because, as discussed, the factory currently fails to adequately limit workers' exposure to acetone spraying in the cleaning rooms through effective containment and ventilation of vapors.

With respect to other work areas at Hansae, the company's formal policy is to require all employees to wear disposable filtering facepiece respirators ("dust masks") apparently as protection against inhalation of dust from cotton and other textile fibers. However, the facility has not conducted independent air monitoring to establish whether these masks are actually needed. Moreover, in the case of many employees, these masks, which are uncomfortable in the factory's hot and humid environment, do not fit workers well enough, and, in any event, are not airtight and are not replaced frequently enough by the company to be effective in protecting against any respiratory hazards that may be present.

ii. Hansae Response

Regarding the respirators supplied to workers in the cleaning rooms, Hansae responded to the WRC that the company will "look for [an] … equipment supplier to provide mask[s] approved by NIOSH for cleaning room employees, train employees on PPE usage, maintenance and storage[,] and will implement a change out schedule based on current working condition[s], [and] supplier's recommendations to prevent vapor breakthrough." This is an adequate approach, however, assuming that Hansae first conducts personal air monitoring of employees in the cleaning rooms in order to establish the concentrations of acetone and other respiratory hazards that are present, and, therefore, what type of respirator is needed. Moreover, PPE should be selected *after* the company has taken measures to limit concentrations of acetone and other respiratory hazards in the room through use of spraying booths equipped with effective LEV.

With respect to the issue of whether respirators are required in other areas of the factories, Hansae states that "The factory continues to monitor ambient air quality … and verify the need for respiratory protection, [and] [t]he current result meets the local law." The company says that it "will review the change out schedule for personal protective equipment based on the need and result of air monitoring." However, overall ambient air monitoring may not capture respiratory risk to workers in particular job categories.

iii. WRC Additional Recommendations

The WRC recommends that Hansae:

- Conduct personal air monitoring in the cleaning rooms to establish concentrations of acetone and other respiratory hazards;
- Select and obtain appropriate NIOSH-approved respirators for workers in the cleaning rooms, based on the results of this air monitoring;
- Conduct independent and expert personal air monitoring for an adequate sample of employees and work areas in order to establish fabric dust concentrations and determine the need for respiratory protection.;
- If required based on results of monitoring, implement dust-reduction measures (regular removal of dust to prevent accumulation on machinery, floors, and other surfaces, etc.), and require facepiece respirators only if these measures are inadequate; and
- If necessary, provide filtering facepiece respirators and ensure that these fit properly and are replaced daily or more frequently if needed.

b. Hand and Foot Protection

i. Findings

The WRC found that workers in Hansae's shipping area wear open-toed sandals, and, as a result, risk injuries to their feet from lack of protective footwear. These employees use pallet jacks to move pallets loaded with incoming materials and outgoing finished products. The workers in this area also load boxes of finished products onto trucks using rolling conveyors. While these activities reportedly are only conducted intermittently, generally, for no more than two hours in total per day, if performed without protective footwear, they present risks of injuries from jacks, pallets, boxes and other materials that may fall from the conveyors.

It also was found that the facility's electricians are exposed to risk of injury from electrical shock due to lack of insulated gloves, and that, in the case of workers using cutting equipment in Factories 5 and 8, the company did not replace protective metal mesh gloves that have developed holes.

ii. Hansae Response

Hansae agreed to provide insulated gloves to the electricians and has replaced the protective metal mesh gloves that have developed holes. However, with respect to protective footwear for workers in the shipping area, the company states that "The factory will review the current risk assessment for operations in the warehouse with the focus on suitable PPE and will implement

proper PPE according to the revised risk assessment, employees' opinions, [and] current working time [involving crush hazards]." The WRC is concerned that Hansae is refusing to commit to provide and require use of protective footwear in its shipping area when employees are exposed to crush hazards.

iii. WRC Additional Recommendations

Hansae should provide workers in its shipping areas with protective footwear, such as steel-toed shoes, or removable toe-guards, and require their use for work that presents crush hazards. If shoes are provided, correctly-fitting footwear should be individually assigned to each employee who requires it, alternatively, removable toe-guards of various sizes can be made available for common use.

c. Hearing Protection

i. Findings

The WRC found that workers using compressed air guns in the factories' cleaning rooms were exposed to sound levels of 96 dBA, well above the 90 dBA ceiling limit under Vietnamese safety regulation,[54] which represents four times the maximum permissible loudness. While workers in this area wear earplugs, the noise reduction rating of the earplugs, which indicates their effectiveness in protecting against hearing damage, was not available.

ii. Hansae Response

Hansae states that "[t]he factory will install the pressure reducer nozzle[s] for compressed air guns [in the] cleaning room to reduce noise of compressed air guns when [they are] us[ed]. Additionally, the factory will post [the] noise reduction rating for [its employees'] ear plug[s]." However, Hansae should also commit to supplying workers with whatever hearing protection is needed to keep noise levels below an 85 dBA time-weighted average exposure for an eight-hour shift.

iii. WRC Additional Recommendations

The WRC recommends that Hansae evaluate the earplugs used by employees in the cleaning room to ensure that these provide sufficient noise reduction to keep daily average exposures below 85 dBA. If the installation of pressure reducer nozzles, along with use of the earplugs currently worn by employees is not sufficient for this purpose, Hansae should provide hearing protection to employees that achieves this result.

[54] Labor Code, Articles 138 and 147; Standard TCVN 3985:1999.

iv. Hansae Response to WRC Additional Recommendations

Hansae has stated that it "will look for a supplier to provide adequate hearing protection for those employees [who are exposed to the compressed air guns]." Once the company has acquired such hearing protection and it is issued to and worn by the affected employees, this issue should be resolved.

8. Falling Hazards

a. Findings

Several conditions were identified at Hansae that violated safety standards[55] by presenting risks that workers could fall and be injured. Some of these conditions involved risk of employees slipping on wet floors, including in the food preparation area of the factory canteens, which lacked anti-slip mats near stoves where workers handled large pots of hot liquid, and, as noted, under the emergency eyewash stations in the factories' cleaning rooms, which lack drains in the tile flooring.

Other hazards presented risks of workers falling from elevated locations. These conditions included lack of mechanical lifting devices in the factories' warehouse, which requires employees to ascend and descend a ladder while carrying large boxes weighing upwards of 25 kg. (55 lbs.) with only limited visibility. Also, in the statistics area in Factory 9 and the quality control area in Factory 11, employees faced unmarked tripping and falling hazards when stepping onto or off of raised platforms. Finally, it was also found that the first step of the stairs from the top of Factory 5's stock warehouse lacked supporting reinforcements.

b. Hansae Response

Hansae provided verification that it has reinforced the stairs from the top of Factory 5's stock warehouse. The company also has committed to:

- Require "the management of the factory canteen [contractor] to provide anti-slip mats next to the stove and clean all areas to ensure [that they are] not slippery especially at the food preparation area;" and

- Post a "warning sign on the platforms [in Factories 9 and 11] right where the people get on and off to warn employees of the break in elevation and trip/fall hazard."

[55] Id.; Law No. 84/2015/QH13, Articles 7, 15, 72-74; Circulars 30/2012/TT-BYT and 15/2012/TT-BYT; and Joint Circular 13/2014.

These steps would adequately address the relevant hazards in those locations. With respect to the fall hazards related to the emergency eye wash stations and the warehouse, Hansae has said it will:

- Provide a "proper mat underneath the emergency eye wash station which [will] prevent the slipping hazard on the floor" and install "carpet to capture any water stream" from the station;
- Provide "fall protection training to warehouse packing workers annually to enhance their awareness about fall protection which will include the maximum weight for regular lifting," and
- Ensure that "[mechanical] [e]quipment will be used in case the load is above the maximum weight."

These steps are not adequate because they do not prevent the accumulation of water on surfaces near the eyewash stations, and also still require workers to climb and descend stairs with oversize boxes.

c. WRC Additional Recommendations

The WRC recommends that Hansae:

- Install a pipe to a floor drain or a bucket to capture water streams at all emergency eyewash stations, *or* place anti-slip mats on areas of the floor adjacent to the stations, and ensure immediate clean-up of any water accumulation.
- Provide mechanical lifting devices to allow workers to place and remove heavy or oversize boxes on or from high-level racks in the factory warehouse without having to carry these items up and down ladders.

9. Materials Handling

a. Findings

In the company's warehouse, it was found that boxes in the mezzanine of the old stock warehouse in Hansae's Factory 5 were not stacked using an interlock method, creating a safety violation from the risk of boxes falling onto workers and injuring them.[56] In addition, it was observed that the storage racks in the warehouse were not bolted to the surface of the floor,

[56] Labor Code, Article 138 and 147.

creating a further safety risk[57] of injury to employees from falling objects should the racks shift position as a result of collision or other mishandling.

b. Hansae Response

Hansae corrected the hazards from the stacking of the boxes by rearranging these in an interlock pattern and assigning personnel to monitor this activity going forward. Hansae also said that it is "conducting to bolt the storage racks to fix on the floor." If the factory means by this that it is committing to bolt the racks to the floor in a timely fashion, this hazard would be resolved as well.

10. Food Safety in Factory Canteens

a. Findings

Workers reported to the WRC that the food in the factory's canteens, which are operated by an outside contractor, is sometimes both poor in quality and spoiled, including, in some instances, being infested with what witnesses describe as "worms." Employees recalled that, in the past, problems with provision of food in the canteens had caused some groups of workers to go on strike.

On inspection of the factory canteens, it was found that Hansae failed to meet legal standards,[58] by:

- Exercising insufficient oversight over the safety and hygiene of raw food used by the canteen contractor;
- Reusing cooking oil excessively;
- Neglecting to properly cover cooked food; and
- Lacking shielding for the fluorescent tube lighting on the kitchen ceiling, which, if broken, could drop glass shards and/or mercury in the food preparation areas.

b. Hansae Response

The company has committed to address the food safety problems by:

- Installing shielding on the fluorescent lamps in the food preparation areas.
- Using a "reputable supplier to provide raw foods which are bought directly from the local market;"

[57] Id.; Circular 05/2014/TT-BLDTBXH.
[58] Labor Code, Articles 138 and 147; Law No: 55/2010/QH12, Articles 10, 11, and 12; Circulars Nos.: 15/2012/TT-BYT, Articles 5 and 6; and 30/2012/TT-BYT.

- Directing the canteen staff and manager to "no[t] reuse cooking oil;" and
- "Cover[ing] cooked food."

With respect to the risk of food contamination if the lighting is broken in the canteen kitchen, Hansae stated that it would "replace the fluorescent light tubes … [with] anti-explosive lights." However, this step may not prevent contamination if the light is broken without an explosion.

c. WRC Additional Recommendations

The WRC recommended that Hansae install slip covers or other shielding on fluorescent lamps in food preparation areas.

d. Hansae Response to WRC Additional Recommendations

Hansae has agreed to install shielding on the fluorescent lights in this area. When implemented, this measure will adequately address the outstanding issues that have been identified in this area.

11. Accommodation for Nursing Employees

a. Findings

Contrary to legal requirements,[59] Hansae does not provide a room at the factory where female workers who are nursing infants at home can pump and store breast milk.

b. Hansae Response

Hansae has agreed to provide two rooms for pumping and storing milk for use by employees who are nursing mothers, which would adequately address this issue.

12. First Aid

a. Findings

i. First Aid Supplies

Interviews with factory workers indicated that the company only fully stocks the factories' first aid kits on days when an outside audit is scheduled. Despite this, on the days when the factory was inspected, two of the first aid kits that were examined in Factory 5 lacked required items,[60] including elastic bandages, triangle bandages, scissors, and forceps; and another of the kits, in the factory's cutting section, was locked, preventing prompt access entirely. Moreover, first aid

[59] Labor Code, Article 154; Decree No. 85/2015/ND-CP (Detailing a Number of Articles the Labor Code in Terms of Policies for Female Employees (2015)), Article 7.
[60] Law No. 84/2015/QH13, Articles 7 and 37; Circular No. 9/TT-BYT, Appendix 2.

kits that were examined in Factories 2 and 6 also lacked required forceps, scissors, absorbent cotton, and burn ointment.

ii. Emergency Eyewash Stations

The WRC also found that Hansae violated safety standards[61] by allowing access to some of the emergency eyewash stations that the company is required to maintain so that employees can rinse their eyes immediately in case of exposure to chemicals or other injury to be obstructed by materials. This violation was observed in areas in Factories 5 and 12 where liquid acetone is sprayed. Also, in Factory 7, the WRC found that a paddle lever, with which the eyewash stations are equipped for ease of use in case of emergency, had been replaced with a faucet valve which would be difficult to locate and operate in case of an emergency, especially with impaired vision.

b. Hansae Response

Hansae reportedly restocked the first aid kits and unlocked the kit which had been locked when inspected, however, the hasp which enabled it to be padlocked originally was not removed, and, so, could allow it to be locked again.

Hansae also had the materials obstructing access to the emergency eye wash stations removed, however, the company refused to replace the missing paddle lever on the eyewash station in Factory 7, stating that the faucet valve design was satisfactory to employees. However, emergency eyewash stations are designed to be instantaneously activated in case of emergency, which is not possible with a faucet valve.

c. WRC Additional Recommendations

The WRC recommends that Hansae:

- Remove all hasps from first aid kits that could enable them to be locked; and
- Equip all eyewash stations with paddle levers or other ISEA[62]-compliant actuators.

Hansae has not accepted this recommendation.

13. Toilets

a. Findings

The WRC also found that Hansae failed to meet health and safety standards with respect to washing and toilet facilities for employees.[63] Specifically, while applicable regulations require at

[61] Labor Code, Articles 138 and 147; Law No. 84/2015/QH13, Articles 7, 15, 72, 73, and 74; Decree 26/2011/ND-CP; and Standard TCVN 5507:2002.
[62] International Safety Equipment Association Standard Z358.1-2014 governs emergency eyewash equipment.
[63] Labor Code, Article 138; Decision 3733/2002/QD-BYT.

least one tap for handwashing for every 30 workers, the bathrooms in Factories 9 and 12 were found to have only one tap for every 55 and every 50 male workers, respectively. Moreover, also in Factory 12, one of the men's toilets was out of operation and covered with wet rags, and, in Factory 5, the toilet paper holders in two of the women's bathroom stalls were empty.

b. Hansae Response

Hansae agreed to:

- "[R]eview the number [of] handwashing taps in all restrooms and install [additional taps] accordingly;"
- Provide a sufficient amount of toilet paper for employees; and
- Consistently maintain the employee toilets.

These measures, if implemented, would adequately address the WRC's findings in this area.

14. Occupational Safety and Health Program

a. Understaffing and Inadequate Training for Safety Officers

i. Findings

According to Hansae, the company has a substantial plant-wide Health and Safety Department that has two fulltime staff in the facility's main offices and 23 part-time staff at the 12 separate factories that make up the plant. In reality, however, Hansae's health and safety office fails to meet even the minimum requirements for staffing levels and training qualifications under Vietnamese law.

The WRC found that Hansae's supposed 'part-time health-and-safety staff' at the factory level, are, in actuality, regular factory managers who have, as their main responsibilities, directing production – not ensuring the safety of workers. As a result, Hansae's only real safety staff consists of the two persons assigned to this role at the plant-wide level. Moreover, the WRC's interviews with the two safety staff indicated that even they are not actually assigned full-time to protecting worker safety.

One of the persons designated as a full-time safety staff member actually spends 50% of his time on utility maintenance issues – overseeing the factory's water and electrical systems – while the other devotes at least 25% of his time to environmental compliance issues – hazardous waste storage and disposal. As a result, rather than the two full-time health and safety officers that Vietnamese regulations require for factories of Hansae's size, the company employs the equivalent of only 1.25 full-time safety staff.

Exacerbating matters, these two (part-time) safety staff members lack substantial qualifications in the field. The employees who works on both safety and environmental issues has a university degree in environmental management, with two semesters of health and safety course work, while the maintenance-related staff member has no formal health and safety education and spent his first decade with Hansae employed in the maintenance department.

Both safety staff members have received less than 14 hours each of health and safety training from the company since Hansae established the Safety Department three years ago. According to Vietnamese law, "Group 2" employees (full- and part-time OHS officers and managers) are required to receive 48 hours of OHS training at their initial time of assignment and eight hours of refresher training every two years.[64] Hansae's current Safety Department employees did not receive any OHS training until their second year in the department, and their total hours to date are well below the minimum required by Vietnamese law.

Equally concerning, Hansae's only designated safety staff do not participate in the most basic health and safety activities at the facility. They do not participate in periodic walk-around safety inspections of the 12 manufacturing plants – these are conducted by members of Hansae's compliance department who lack any safety and health training. They also do not investigate accidents or illness incidents, nor do they measure employees' exposure to airborne contaminants, such as the chemical solvents used in the cleaning/spot-removing rooms.

The safety staff also do not interact with other company personnel whose duties also relate to health and safety, such as the staff of the factory's health clinic or Hansae's compliance department. They are not members and do not participate in meetings of the facility's 27-member health and safety committee.

Finally, the safety staff also do not participate in the writing of the company' twice-yearly report on labor protection which is submitted to the Department of Labor (submitted in January and July of every year), which includes the company's assessment of risks onsite. The two safety staff members describe their actual activities as consisting mainly of pro-active inspections of machinery and equipment, checking that workers are using personal protection equipment (PPE) and evaluating factory levels of heat and noise.

ii. Hansae Response

Hansae has committed to hire "full time OHS staff" and "ensure OHS staff[] are full time and dedicated to all safety activities, including incident investigation, risk assessment, safety inspection, [and the factory] OHS committee." This measure is adequate if the OHS staff includes at least two fulltime employees who are dedicated to these activities. Hansae has also stated that it will provide this OHS staff with training according to legal requirements.

[64] Labor Code, Articles 137, 138, 139 and 150; Circular 27/2013/TT-BLDTBXH.

Hansae has also agreed to reorganize its "internal [safety] monitoring procedure" including creating "development opportunit[ies] for [the] audit team." This measure is adequate if it ensures that the internal OHS audit team receives training in inspection procedures and risk assessments.

With respect to risk assessments, specifically, Hansae states that it "will review the current risk assessment to ensure proper hazards (including chemical, ergonomics...) are identified and proper control measures are set up to reduce the risk of injury and occupational health." To be effective, these assessments must be conducted by the OHS staff independently of factory managers and must be focused on the hazards present in individual job categories.

b. Accident Investigations

i. Findings

The WRC found that Hansae does not investigate the underlying causes of workplace injuries and illnesses, which is necessary in order to reduce the risk of future harm to workers. The WRC reviewed a random sample of 10 incidents between November 2015 and August 2016 where workers were received at the factory's onsite health clinic and then transferred to the hospital for further medical treatment. The injuries involved in these incidents included electrical shock resulting in a fall and head trauma, crushed fingers, fractured hands, needle puncture wounds, and cut hands requiring stitches.

In every one of these 10 cases, the legally required review of the accident[65] was conducted by a committee that, in all cases, also, consisted almost exclusively of factory managers (including those from the same factory where the accident took place) and concluded that the cause of the accident was "worker error" or "worker carelessness." No investigation was conducted of the equipment or work procedures involved in the incident. The only corrective actions prescribed were "worker retraining" and "frequent reminders" to employees to work safely. An approach which consistently blames accident victims for their injuries and does not examine the company's own responsibility to provide safe equipment, develop safe workplace procedures, and maintain safe working conditions does not meet the requirement under university codes of conduct that factory's provide a safe and healthy environment for their employees.

ii. Hansae Response

Hansae has committed to "review and revise as necessary the [factory's] incident management procedure including [the OHS] team [and its] capability[,] to ensure [that] root causes [of accidents] are properly identified, [and] results are objectively and independently investigated." If meaningfully implemented, these measures would adequately address the violations identified.

[65] Labor Code, Articles 137-138, 142, 147 and 151; Joint Circular 01/2011/TTLT-BLDTBXH-BYT.

c. Treatment of Workplace Injuries and Illnesses

i. Findings

Hansae workers also reported that, contrary to Vietnamese law,[66] some employees who are injured or become ill on the job are not permitted to seek treatment in a timely fashion. According to employees in Factory 12, in October 2016, a sewing machine operator whose finger was broken in an accident was made to wait for an extended period of time and complete extensive paperwork before being released to go to the factory's onsite clinic for treatment.

Other employees stated that some supervisors refuse to permit workers who become ill to leave the factory before the end of their shifts. Said another worker from Factory 12, "It is very difficult to get permission to leave early. One worker had severe stomach pains, and asked to leave early, but the supervisor told her that she had to stay on until 4.30 P.M. – the end of the working day."

ii. Hansae Response

Hansae has committed to "review the current incident management procedure to ensure effective response in an emergency" and "provide training to first aid team and clinic staffs for first aid procedure." If these measures ensure that workers will receive treatment for injuries and illnesses in a timely fashion, including being released to visit the factory clinic or to leave the factory for recovery and recuperation when appropriate, then Hansae's response will be adequate to address this issue.

B. Paid Leaves

1. Sick Leave

a. Denial of Medically Authorized Sick Leave

i. Findings

Vietnamese law requires employers to provide sick leave to workers when so directed, in writing, by the worker's physician.[67] Vietnamese law also prohibits using wage deductions as a form of discipline except to compensate employers for damage caused by employees to machinery.[68] University codes require that licensees ensure that their factories provide all legally mandated benefits to workers, including sick leave, and, more generally, require compliance with

[66] Labor Code, Article 140.
[67] Law on Social Insurance of November 20, 2014, Law 58/2014/QH13 ("Law on Social Insurance"), Article 25 (1), available in English translation at: http://vietnamlawenglish.blogspot.com/2014/11/vietnam-social-insurance-law-2014.html.
[68] Labor Code, Article 101.

all local labor laws.[69] Nike's own code requires that workers be provided with legally mandated sick leave.[70]

According to testimony from Hansae workers, the factory's management restricted workers' access to legally mandated sick leave and docks workers' pay for taking sick days, violating Vietnamese law and university labor codes. Workers from several different production buildings testified that, until recently, access to sick leave has been limited to a number of days determined *by Hansae managers*, rather than being determined by the medical advice of the worker's physician.

Several workers testified, from personal experience, that Hansae had previously denied them the number of days of leave deemed necessary by their doctors, instead, granting only a portion of the medically required period of rest. In one case, the worker, suffering from a back injury, was prescribed, upon diagnosis via x-ray, five days' rest by a physician. When the worker presented the doctor's letter to management, however, the manager told him he could have only two days of rest – the day of work he had already missed to see the doctor and one additional day. The worker quoted the manager, who is not himself a physician, as telling him, "This is not serious, so you can only take one [more] day off."

Another worker had been prescribed two days of rest due to dizziness which, she reported, the doctor attributed in part to overwork. She presented the doctor's certificate to Hansae management and was told she would be allowed one day off, the day she had already missed to go to the hospital, and would be required to return to work the next day. She was told "we have no one to replace you, so you have to come to work."

Some workers, convinced that trying to get management to approve sick leave was a fruitless exercise, had taken sick days, when they must, without permission and suffer the disciplinary consequences. One worker stated, "I had to go to the hospital last April. Because I knew I wouldn't get a day off, I just went anyway and got a warning for absence."

It is important to note that Vietnamese law on sick leave is already restrictive, allowing paid leave only in cases where a doctor determines it is necessary and provides a letter to the employer – making it especially important for employers to fully respect the decisions made by medical professionals. Hansae managers, by overriding doctors' orders in favor of the factory's production demands, violated the law and demonstrated disregard for the health and well-being of employees. It is unclear how widespread the denial of sick leave has been at Hansae. Some workers testified that they *could* take prescribed medical leave and others said that they never attempted to take leave and are therefore unsure what would have happened if they did. This likely indicates that there has been some variation among production buildings and/or among

[69] CLC Code of Conduct, §II(2).
[70] Nike, Code Leadership Standards ("Employees shall be provided sick leave in accordance with the requirements of country law.").

varying management personnel in the handling of leave requests, or that these requests have been handled differently depending on the level of production, and concomitant personnel needs, at that moment.

ii. Hansae Response

Workers report that since the release of the WRC's report in May, company supervisors have become less resistant to approving sick leaves based on medical authorization. One worker told the WRC, "Previously it was very difficult to take sick leave, since the supervisors would ask a lot of questions when we submitted our [medical] documents, but now they accept it when we put forward our applications."

However, company managers still place burdensome restrictions on workers' ability to take such leaves. Specifically, workers report that, in order for sick leave to be approved, the company requires medical authorization for the leave to be submitted, by or on behalf of the worker, by 9:00 a.m. on the same day that the employee is missing work.

One worker commented on the impact of this practice on employees,

> If we have the MC [medical certificate] we can take two days off … [but] [w]e also have to submit to the MC by 9 a.m., which can be difficult …. [S]ubmission of the MC on the same day [as being ill] … is not good or safe. Why can't we submit it later?
>
> I had to take sick leave … and had to submit the MC myself, and I was afraid that I was going to faint or get into a dangerous situation, since I was riding a bicycle [to the factory]. Also my colleagues experience similar problems.

As this worker relates, requiring an ill employee to come to the factory in order to take sick leave is both burdensome and potentially harmful to the employee (since the ill employee is denied rest and may even be unsafe to travel) and to others at the factory (who may be exposed to her illness). As a result, the company's practice in this regard runs counter to the very purposes of providing sick leave in the first place – to allow employees who are ill to recuperate and to avoid exposure of other workers to contagious illness.

iii. WRC Additional Recommendations

The WRC has recommended that Hansae remove the requirement that employees submit medical authorization for sick leaves on the same day of their absence.

iv. Hansae Response to WRC Additional Recommendations

Hansae has agreed to "provide training to all factory management team (Factory Manager, Planning Manager, Supervisor) about sick leave procedure … to ensure no need to provide

medical certificate on the same day that leave is taken." If this revised procedure is followed, Hansae will have adequately addressed this issue.

b. Illegal Pay Deductions for Use of Sick Leave

i. Findings

Hansae workers also reported that they faced substantial economic penalties if they took a sick day. Numerous workers testified that Hansae management deducted a worker's entire monthly "diligence bonus" (a form of attendance bonus common in Vietnam) of 250,000 VND (USD 11.22) if he or she took even one sick day – even if the absence was ordered by a doctor and approved by factory management. This practice violated Vietnamese law and thus also violated university codes of conduct that require compliance with all local labor laws. As already noted, under Vietnamese law, all wage deductions used as a form of discipline are illegal, except if they serve to compensate employers for damage caused by employees to machinery.[71]

Docking workers the equivalent of two days' pay (at minimum wage) for any use of sick leave also has the effect of deterring workers from using this legally guaranteed benefit and therefore also violates the law in this respect. Nearly all workers interviewed by the WRC, including those who said they *were* able to take sick leave, reported the illegal deduction of their "diligence bonus" as the penalty that the company applied if workers used this benefit.

ii. Hansae Response

This punitive practice appears to have been discontinued since the WRC's May report was released. As one worker reported, "[w]hen I submit the medical certificate with my sick leave application, I can keep my attendance bonus." If Hansae adheres to a policy of paying employees who take medically authorized sick leave the monthly attendance ("diligence") bonus, without any deduction from the amount of the bonus on account of the use of such leave, this will address this issue going forward. However, full remediation of this issue will require that workers be compensated for the income they have lost on account of the company's prior punitive approach.

iii. WRC Additional Recommendations

The WRC has recommended that Hansae make workers whole for all prior deductions of their monthly attendance bonuses for use of sick leave for which medical authorization had been provided. Hansae, however, has not, as yet, agreed to undertake such corrective action.

[71] Labor Code, Article 101.

2. Leave for Work-Related Injuries

a. Findings

In at least one case, Hansae denied an employee leave for a work-related injury, by misclassifying a request for leave on account of an injury suffered while commuting as an ordinary sick leave, rather than as leave for a work-related injury, as the law requires.[72]

The employee was injured in a motorbike accident while traveling to work, and because Hansae misclassified her resulting absence from work as sick leave, rather than work-related injury leave, the employee was required to use her sick days (which are paid by state social insurance at a rate lower than workers' regular wages, and of which workers have a limited annual allotment) rather than being paid her regular wages by Hansae for the duration of her recovery (as the law requires in case of work-related injuries).[73]

As a result, this worker both experienced loss of legally due income during her recuperation from the accident, and, because her annual allotment of sick days was exhausted during her recovery from the accident, had to take unpaid leave when she became ill later during the same year.

b. Hansae Response

Hansae refuses to provide compensation to the affected worker because it claims that the misclassification of this leave – which resulted in a cost savings to the company – was due to the employee failing to provide a police report of the accident. Hansae has not produced any evidence, however, that it requested such documentation from the employee at the time.

c. WRC Additional Recommendations

The WRC recommends that Hansae:

- Make whole the affected employee who experienced the work-related injury for any loss of income due to the misclassification of her leave, including wages for any unpaid leave taken on account of having expended her sick days while recuperating from the accident, and the difference between the amount received from social insurance for the period of leave and the amount of regular wages she would have received had the leave been properly classified;

- Review all cases in the last 12 months of employees' absence from work due to injuries occurring either at the factory, or while commuting, to verify their proper classification as work-related injuries, and, if any misclassification is identified, to make workers whole for any loss of income; and

[72] Labor Code, Article 142; Decree 45/2013/ND-CP, Article 12.
[73] Compare, Labor Code, Article 144, to Law on Social Insurance, Articles 2, 22, and 25.

- Inform employees that all injuries from accidents that are documented as having occurred while commuting to or from the factory will be treated as work-related injuries, and that the company will provide medically authorized leave to and compensate employees for these injuries accordingly.

Hansae has not, as of yet, agreed to these recommendations.

3. Family Leave

a. Findings

Under Vietnamese law, workers have the right to take up to 20 days of paid leave to take care of a sick child under the age of three, or 15 days off to care for a sick child between the ages of three and seven.[74] Requesting this leave also requires certification from a competent health establishment.[75]

One Hansae worker interviewed by the WRC recounted a disturbing experience, in which she was unlawfully denied leave to care for a seriously ill child and was forced to resign. The worker in this case qualified for leave and presented the required medical certificate to the management. Management refused to grant the leave. The worker reported that she had no choice but to resign.

Later, this employee reapplied for work at Hansae and was rehired, but lost her seniority (as well as the pay she would have received during the leave period). Other workers also reported that supervisors denied some employees' request for brief leaves to take care of ill children.

b. Hansae Response

According to workers interviewed most recently by the WRC, the company's practice with respect to family leave has improved somewhat since the release of the WRC's May report. The company now provides limited family leave in cases where employees' children are hospitalized, but continues to deny such leaves when the child is ill but recuperating at home.

This practice is especially burdensome for workers with young children who cannot be left at home alone when ill. One worker reported, "If the child is hospitalized we can take one or two days off, but if the child is not well and needs to stay home and recover, then we cannot take leave." Added another worker, "If we take a day off to take care of our kids [when they are home sick], we will lose a day's wage and attendance bonus."

[74] Law on Social Insurance, Article 27.
[75] Id., Article 25.

c. WRC Additional Recommendations

The WRC recommends that Hansae should:

- Provide family leave for employees who must be absent from work due to the medically documented illness of a child, regardless whether the child is hospitalized or recuperating at home, and without any penalty to the employee; and
- Compensate workers for any unpaid leave taken in prior cases where paid family leave that had been medically authorized was denied, and any loss of attendance bonuses as penalty for prior use of family leave.

Hansae has not, as of yet, accepted these recommendations.

4. Annual Leave

a. Scheduling of Annual Leave

i. Findings

Hansae workers reported that the factory management did not permit them to schedule use of statutory annual leave on dates of their own choosing, but instead directed employees to take leaves on dates chosen by the company that fell during periods of low production. Vietnamese labor law gives employers the right to arrange the scheduling of workers' annual leave, but also requires that employers consult with workers in advance of setting the leave schedule.[76] Hansae has provided no evidence that it engaged in such consultation with employees – while the company indicated that it consulted with the factory union in this process, as discussed below, the union is dominated and directly administered by factory managers.

ii. Hansae Response

Hansae has indicated and workers have independently confirmed that the company has now modified its policy on scheduling annual leave to allow workers to schedule four days of their annual leave while the factory management retains discretion to schedule the remaining 10 days of their allotment. Though this is a significant improvement on the company's prior practice, it still does not comply with the legal requirement that the factory actually consult with workers with respect to their overall schedule of annual leave.

iii. WRC Additional Recommendations

The WRC recommends that Hansae's management consult substantively with its non-managerial and non-supervisory employees with respect to these workers' preference for the scheduling of

[76] Labor Code, Articles 111 and 112; Decision 1629/1996/QĐ-BLĐTBXH.

annual leave, before these schedules are finalized. Hansae, has not, as of yet, accepted this recommendation.

C. Wages and Hours

1. Working Hours

a. Forced Overtime

i. Findings

Under Vietnamese law, all overtime must be voluntary.[77] University labor codes all require compliance with such local laws. Nike's code likewise requires that overtime be "consensual."[78]

Testimony from Hansae workers shows that the company has violated the law in this regard. For many workers at the factory, overtime has long been, in effect, compulsory.

The standard workday at Hansae Vietnam, as described by most workers, is nine hours. The paid work shift begins at 7:30 a.m. and ends at 4:30 p.m., with a one-hour midday break – although, as discussed below, the company's practice, until recently, was to require most workers to arrive at their work stations by 7:15 a.m.

According to testimony from numerous workers, across production buildings, workers in many cases have not been allowed to refuse overtime. Moreover, workers have been *required* to sign a consent form, indicating that they have chosen to perform overtime voluntarily – presumably so that Hansae can show this documentation to auditors as ostensible proof of compliance. Several workers testified that a worker who did not wish to sign this form had to provide a specific reason why he or she could work overtime – a requirement that is, on its face, illegal, since the obligation to *justify* the decision to decline overtime is incompatible with a genuinely voluntary system.

In any case, even where workers have been able and willing to provide a reason for declining overtime, the frequent response from managers has been yelling, shouting, and a refusal to accept the worker's justification. When asked the consequences that would befall a worker who consistently refused overtime, several workers said that the result was dismissal, with another suggesting it is a moot point, since no one dared to refuse.

Not every worker testified that overtime was obligatory, although a majority of those interviewed did. Several workers said that it was possible to refuse overtime, though none testified that they had personally done so. This variation in worker testimony likely reflects the apparent variation in management practices, on some issues, among different factory buildings and may also be a

[77] Labor Code, Articles 8 and 106.
[78] Nike Code of Conduct, *supra*, n. 7.

product of the fact that many workers had never tried to refuse overtime and were therefore testifying on the basis of perception and common knowledge, rather than direct experience.

Moreover, as is common in garment factories, although workers want to be able to refuse overtime when health or personal obligations require it, most workers also want the opportunity to work overtime when they are able, since this is the primary means available to them to augment the extremely low wages that prevail in the industry (i.e., a minimum wage of USD 67 cents an hour – 139.10 per month – in the region of Vietnam where Hansae is located[79]). The wish to have the opportunity to work more overtime on most days is entirely compatible with the wish to be able to refuse overtime when necessary and, indeed, both are common among garment workers, in Vietnam and elsewhere, given the realities of the industry.

Taken as a whole, worker testimony demonstrates conclusively that many Hansae workers have been deprived of the right to refuse overtime and that Hansae management maintained a practice of generating what has been, in effect, false documentation of voluntary consent to overtime, in at least some production buildings.

The experience of one worker demonstrates why the right to refuse overtime matters. One witness shared the story of a co-worker who sought leave to attend the funeral of a family member. Not only did the management refuse to grant leave to her on the day of the funeral, but the worker was also forced to work three hours of overtime on that day, ensuring that she could not be with her mourning family until late in the evening.

ii. Hansae Response

In response to the finding that overtime is forced, Hansae announced that it was revising the company's "voluntary overtime work" form to remove the section of the form that asked employees to provide a reason why they did not wish to work overtime. As one employee recently told the WRC, "[T]he company announced [to the workers] that, if they don't want to do overtime, they can inform the supervisor and let them know that they are not interested."

These are positive developments, but, to achieve full compliance, it is necessary for Hansae to develop a procedure where workers actually "volunteer" for overtime, rather than be required to inform their supervisors they are declining to work additional hours. Moreover, it is necessary that previous instances of workers being unlawfully disciplined for refusing overtime be removed from their personnel records, and that discipline be imposed, instead, on any supervisors who pressure employees to work overtime against their will.

[79] Labor Code, Article 91; Decree 103/2014/NĐ-CP; and Circular 33/2013/TT-BLĐTBXH.

iii. WRC Additional Recommendations

The WRC recommends that Hansae:

- Review employees' disciplinary records and remove all prior discipline for failure to perform overtime;
- Discipline any managers or supervisors who pressure workers to perform overtime;
- Ensure that overtime is truly voluntary, by establishing an 'opt-in' system for employees to indicate their willingness to work additional hours:
    - Specifically, Hansae should adopt a consistent practice of notifying employees of the availability of overtime, while affirming that working overtime is optional, not mandatory; and
    - When overtime is available, Hansae should give workers the opportunity to *volunteer* for overtime, but not require them to affirmatively decline to overtime, if they do not want to work for this additional time.

iv. WRC Additional Recommendations

Hansae has agreed to "revise [its] Overtime Voluntary Work policy and form to [establish an] 'opt-in' system allowing workers to volunteer for overtime," and "communicate to all workshop managers … that overtime work is fully voluntary and discipline managers who don't follow this policy," as well as to "review and remove notices or disciplinary records for failure to perform overtime." When implemented these measures should adequately address the WRC's findings in this area.

b. Excessive and Unrecorded Overtime

i. Findings

Vietnam's labor law sets a maximum annual limit on the overtime that an employee can perform of 300 hours per year.[80] Hansae has acknowledged that the factory previously violated the annual legal limit with respect to the overtime hours worked by many employees.

Some workers interviewed by the WRC testified that the company's current practice is to avoid the law's restrictions by having employees "swipe-out" from the company's timekeeping and then continue working for two more hours – and to pay employees for this additional time in cash, separately from the payment of their regular wages. It is not entirely clear how widespread and frequent this practice is, since some employees whom the WRC interviewed testified that

[80] Labor Code, Article 69, Decree 109/2002/NĐ-CP, Article 1 (C) 3;
Circular 15/2003/TTBLĐTBXH, § II (1.2)

they were not aware of it. Any incidence of overtime performed in this manner, however, is troubling, since it clearly represents a deliberate attempt to conceal from monitors and auditors the violation of the overtime laws.

ii. Hansae Response

Hansae asserts that the company currently monitors workers' annual overtime hours very closely and complies with the law.

iii. WRC Additional Recommendations

The WRC recommends that Hansae:

- Monitor overtime hours worked by employees and limit these hours to within the legal maximums; and
- Ensure that all hours worked by employees are recorded in the company's timekeeping system, and paid in workers' regular wages.

As noted, Hansae claims that it is already in compliance with the law in this regard and does not permit off-the-clock overtime. Going forward, the veracity of Hansae's commitment can only be confirmed through additional monitoring, via worker interviews.

c. Excessive Hours for Older Workers

i. Findings

Vietnam's labor laws limit the daily time worked by employees who are elderly to seven hours per day.[81] Although Hansae represented in some factory records that the daily hours of these employees were within the legal maximums, their actual hours – as confirmed both through other timekeeping records and workers' own testimony – exceeded these limits, and were not shorter than those generally worked by other employees.

ii. Hansae Response

Hansae has stated, and recent interviews that the WRC has conducted with employees confirmed, that the company has revised its policy with regard to the hours of employees in this classification to limit their daily working time to the legal maximum of seven hours, which adequately addresses this issue.

[81] Labor Code, Article 154.

d. Rest and Meal Periods

i. Work during Daily Rest Period

Findings

As discussed above, the WRC reported that Hansae workers had testified that due to high production quotas, it was common for employees to work through their two daily five-minute rest breaks and/or, in some factories, to work through part of their lunch breaks, both of which are required under Vietnamese law.[82]

Hansae Response

As discussed, Hansae has acknowledged the need to revise the process by which its production quotas are set, and has indicated that, during the course of 2017, it plans to replace its current method of calculating these with the General Sewing Data (GSD) system. If this process results in revised quotas that take into greater account the need for workers to take rest and meal breaks, the pressure on employees to forgo these breaks will be reduced.

As also noted, Hansae has indicated that it has already revised workers' production quotas to provide allowances for rest-time and equipment maintenance. While not all workers interviewed by the WRC reported that their production quotas had been lowered, employees did consistently acknowledge that they are now able to take brief five-minute rest breaks in the morning and afternoon. Employees also reported across-the-board that they are no longer permitted to work during their meal periods, as the company turns off the lights and power in their production areas during this time – a practice that previously was followed in some of the factories but not in others.

ii. Rest Periods for Overtime Work

Findings

Vietnamese law requires that employers provide an additional 30-minute rest period for employees who work for more than 10 hours in a single day.[83] It was found that Hansae did not have a policy of providing such a break.

Hansae Response

Hansae acknowledges that it did not previously have a policy of providing a meal break for overtime work past 10 hours in a day. The company reports that, as a formal matter, it now has adopted such a policy. However, the factory also claims that there were no occasions previously

[82] Labor Code, Article 108.
[83] Labor Code, Article 108; Decree 45/2013/NĐ-CP, Article 5(2); Circular 15/2003/TTBLĐTBXH, §. II (1.2).

when employees worked more than 10 hours in a single day, and, therefore, that there have been no cases where this legal requirement has been violated.

As noted, however, the regular workday at Hansae is already nine hours long and workers testified that, during periods of high production, they have performed additional overtime resulting in their total workday exceeding 10 hours. In particular, as previously discussed, this additional overtime includes work performed off-the-clock, after workers have "swiped-out" of the company's timekeeping system, for which they are paid separately in cash.

WRC Additional Recommendation

The WRC recommends that Hansae develop and implement a process for compensating employees who have previously worked more than 10 hours in a single day without receiving an additional 30-minute paid rest break. Hansae has not, as of yet, accepted the WRC's recommendation in this area.

iii. Rest Periods for Menstruating Employees

Findings

Vietnam's labor law requires that employers provide an additional 30-minute daily paid rest break, three days per month, to female workers while they are menstruating.[84] Workers reported, and Hansae's management acknowledged, that female employees have not previously taken this break. While Hansae has reportedly paid female workers an additional 1.5 hours' wages per month in lieu of providing the paid rest break, this practice does not comply with the law.

Hansae Response

Hansae management has acknowledged that female workers have the right to avail themselves of menstruation breaks, and it is reported that, in recent months, employees have availed themselves increasingly of this right. This constitutes adequate remediation.

2. Wages

a. Off-the-Clock Work

i. Findings

Due to pressure from the company to meet production quotas, as well as, in some cases, direct threat of discipline from supervisors if they did not comply, many employees at the factory performed work before the beginning of their regular shifts and during their statutory rest breaks for which they did not receive compensation. Workers reported that these practices had continued at the factory for at least the past several years. Because this work was performed in

[84] Labor Code, Article 155.5; Decree No. 45/2013/ND-CP, Article 3.

addition to employees' regular work shifts of nine hours per day, it must be considered overtime, which, by Vietnamese law, is to be paid at the rate of 150% of the workers' ordinary wage.[85]

Evidence shows that most Hansae employees resumed work five to 10 minutes before the actual end of their daily rest break, when a bell was rung signaling that the break would be ending soon. Some other Hansae employees worked through the beginning of the rest period. As previously discussed, however, this practice was not uniform across the facility's factories, since, in some, but not all, buildings, the company turned off the power and lighting during the break period.

In addition to working during statutory rest periods, Hansae employees also performed uncompensated work prior to the beginning of their regular shifts. The paid workday at Hansae begins at 7:30 a.m.; however, employees consistently testified that they began working 10-15 minutes prior to this, at 7:15 a.m. or 7:20 a.m., or even earlier, if they had been unable to meet their production quota on the previous day.

During these pre-shift periods of uncompensated labor, employees performed both actual production work (fulfilling an uncompleted production quota from the previous day or gaining a start on completing the quota for the current one) and other tasks, such as cleaning their work areas in preparation for the day's production activities.

According to some employees, their early arrival at their stations and start of work before the beginning of their regular shift was a daily activity, performed at the explicit direction of their supervisors with the open threat of discipline if the worker did not comply. One worker told the WRC, "If we didn't show up early, we would receive a warning."

Other workers, however, indicated that they worked off-the-clock before their shifts without being specifically directed to do this by their supervisors, but in order to be able to fulfill the production quotas which they were assigned by the company and which they could not meet without the extra work. In both cases, however, workers reported that their supervisors were well aware that employees began work prior to the beginning of the shift, and, that, even if the supervisors did not explicitly require this extra work, at the very least, they encouraged it.

It should be noted that while each specific daily instance of off-the-clock work by employees represented a brief period of time, the cumulative loss of earned wages by workers from this violation is quite substantial. Assuming, conservatively, that an employee began work, each day, 10 minutes before the beginning of her work shift, and then began her rest break at the proper time, but ended her break five minutes early, this would amount to 15 minutes of off-the-clock overtime per day. Over the course of a year, this adds up to more than 1.5 weeks of uncompensated overtime (given the required overtime wage premium, this amounts to more than 2.25 weeks of regular wages). Given that thousands of workers were affected, and that the

[85] Labor Code, Article 97.

practice was ongoing for several years at least, the total amount of wage theft involved was sizable.

ii. Hansae Response

As discussed, Hansae now reportedly turns off the power and lights in all of the facility's factories during employees' rest breaks, which effectively prevents employees from working during this time. In recent interviews, workers also testified that Hansae supervisors who earlier directed employees to begin working before their regular shifts have now ceased this practice. One employee relates, "Previously, the company required the workers to come early 15 minutes. However, as of about three weeks ago [i.e., in September 2016], workers are no longer told to work early like before."

Some employees interviewed by the WRC report that the company no longer permits any uncompensated work, whether before the start of their shifts or during their rest breaks. One employee told the WRC, "Previously, if we came early, we were not paid for that time. Many workers came early and worked in the lunch time, but now we are not allowed to work outside our regular shift."

Some of these workers indicated that the company's recently adopted prohibition on working outside of regularly scheduled hours is being strictly enforced. One worker stated, "Previously, we started early every day and sometimes we had to work during lunch time. But now we are not allowed to, and will get a warning [from the supervisors] if we do."

However, the company's practices in this regard still do not appear to be entirely uniform. According to other employees, while they are no longer required to begin work at 7:15 a.m., their supervisors still require them to begin preparing their work areas at 7:25 a.m., five minutes before the start of their paid shifts.

The measures that Hansae has taken to discontinue off-the-clock work by employees prior to the beginning of the work shift and during rest breaks are a very positive development. They are reflected in the corrective action plan that Hansae and Nike have developed which states, with respect to the issue of work before the beginning of the shift, that "The factory immediately announced to all employees and factory management about the [company's] policy of working time recording, [and] early and late work by a meeting with all workshop managers to re-enforce the current policy" and that "[t]he factory has implemented the practice … [for] door opening and [the] power shut down policy [so] that the power and door [opening] only start at the official working time."

However, Hansae, in order to correct the violations of Vietnamese law and university codes in this area, must also compensate employees for the unpaid work they have previously performed for the company. If employees are not paid for this work, they will be permanently denied

significant compensation that they legally are owed for labor that they have already performed. If Hansae is not made to pay compensation, this will also reduce the degree to which management is deterred from resuming these illegal practices in the future. To date, Hansae has paid no compensation to employees for this work.

iii. WRC Additional Recommendations

The WRC recommends that Hansae:

- Develop an objective process to estimate the amount owed to workers for past nonpayment of overtime wages and that the company then pay this compensation in full; and
- Ensure that *all* employees do not begin work until the actual start of their paid shifts.

iv. Hansae Response to WRC Additional Recommendations

Hansae's response to the WRC's recommendation that workers be compensated for the off-the-clock work they have performed for the company was to claim, falsely, that "there was no violation about this, [and] the factory implements strictly working time policy." In a revised response, Hansae stated that it will provide all workers with one additional paid 30-minute break, apparently in compensation for their past uncompensated labor.

Compensatory time ("comp time") is not an adequate remedy for illegally uncompensated labor (and, if it were, 30 minutes of comp time would not constitute a serious proposal for remediation). It remains necessary for Hansae to enact the additional recommendations and to compensate workers, in the form of back pay, for the uncompensated labor they have performed.

b. Implementation of Wage Increases and Allowances

i. Findings

It was found that Hansae had violated Vietnamese labor regulations,[86] by underpaying workers an annual wage increase and, also, a wage allowance to which it had previously committed. The wage increase that workers received in 2016 was less than required under the wage scale that Hansae had submitted to the local industrial zone authority and that the authority had already approved. Although the factory claimed that the authority approved the smaller annual increase, it was unable to produce documentary evidence of this.

In addition, Hansae also reduced the amount of money it paid to workers in its wage scales as a "responsibility allowance." While, in 2015, this allowance had been set at a range of 200,000 to

[86] Circular 23/2015/TT-BLĐTBXH, Article 3.1.a; Decrees 122/2015/NĐ-CP, Article 5.4, and 05/2015/NĐ-CP Article 26.

400,000 VND, in 2016, the factory reduced the amount of the allowance to a scale of 50,000 to 100,000 VND. The factory management stated that the responsibility allowance was lower because the company had taken a portion of the sum workers previously received for it, and was paying this to workers as a "position allowance." However, this division of the allowance was not reflected in the factory wage scale that was approved by the zone authority.

ii. Hansae Response

Hansae agreed that it would review and revise its wage scale to "ensure alignment between the [actual] annual increase and the [approved] wage scale." The factory also said that it would "balance compensation" for workers who had "fail[ed] to be provided [a] wage increase consistent with [the] registered scale in year 2016."

With respect to the responsibility allowance, Hansae asserted that, under Vietnamese law,[87] the factory had discretion to revise the amount of the allowance, and that the company had retained this discretion in its collective bargaining agreement (CBA) with the factory union. The factory also stated, however, that it was not reducing the overall amount it was paying to its workers in wage allowances.

The WRC's observed that the provisions of the company's CBA with the factory union could not be considered an expression of workers' assent, as the union is controlled by the factory's management. The WRC also noted, however, that so long as workers do not experience any loss of income as a result of the factory changing how it designates the allowances, then the change has no material impact.

iii. WRC Additional Recommendations

The WRC recommends that:

- Hansae provide details of its plan to "balance compensation" for workers affected by its change in wage increase;
- Ensure that this plan makes up any shortfall in the wages that already have been paid to workers relative to the increase the company originally committed to in its wage scale;
- Provide documentation of such payments to workers;
- Provide documentation of the payment of allowances to employees; and
- Make workers whole for any reduction in the overall amount of allowances they are receiving as a result of Hansae's dividing the "responsibility allowance" into a "responsibility allowance" and a "position allowance."

[87] Decree 122/2015/ND-CP.

The WRC has not received a response, as yet, from Hansae as to this recommendation.

c. Social Security Contributions

i. Findings

It was found that, in violation of Vietnamese law,[88] the factory does not make contributions for newly hired workers into the country's social, health, and unemployment insurance system until these employees have completed their probationary period.

ii. Hansae Response

Hansae claims that it is not legally required to make contributions for "official employees having official labor contract." However, Vietnamese labor law makes clear that workers on probation are considered to be employees, who must be employed under a contract. [89]

The country's social security law states that workers who are employed under contracts of one month or more in duration must be covered under social insurance.[90] Hansae signs contracts with probationary workers which are of 30-days duration, with the result that Hansae must make social security contributions for these workers, and must compensate employees for its prior failure to do so.

iii. WRC Additional Recommendations

The WRC recommends that Hansae:

- Makes social insurance contributions for employees during their probationary period for all employees hired under probationary contracts of 30 days or more; and
- Compensate all current employees who were hired under probationary contracts of 30 days or more for the amount of the social insurance contribution that the company should have paid during this period.

As yet, Hansae has not accepted these recommendations.

[88] Law on Social Insurance, Article 2.
[89] Labor Code, Article 26.
[90] Law on Social Insurance, Article 2.

d. Childcare Allowance

i. Findings

It was found that, in violation of Vietnamese law,[91] Hansae does not provide female workers with young children with the statutorily required childcare allowance while these employees are completing their probationary period.

ii. Hansae Response

Hansae denied that it has a legal obligation to provide the childcare allowance to workers while they are on probation. However, in July 2016, the factory revised its policies to begin paying the childcare allowance to probationary employees.

Hansae's commitment to pay the childcare allowance to probationary workers going forward is a positive development. The company's contention that it was not legally required to provide the childcare allowance to probationary employees is not consistent with the provisions of the Labor Code that establish this obligation, which make no distinctions between probationary and non-probationary employees in this regard.[92] Therefore, remediation of the impact of the prior violation requires that Hansae compensate workers who were legally eligible to receive the childcare allowance while on probationary status but were not provided with this benefit.

iii. WRC Additional Recommendations

The WRC recommends that Hansae provide compensation to make workers who incurred childcare expenses during their probationary periods whole for the company's prior failure to provide this allowance. Hansae has not, as of yet, accepted this recommendation.

e. Punitive Wage Deductions

i. Findings

As previously noted, Hansae has engaged in a number of practices that punished workers monetarily, through loss of wages, for conduct that the factory management found unsatisfactory, including, but not limited to, taking statutory sick leave and failing to meet the factory's very high production quotas. As discussed previously, Hansae management deducted workers' monthly attendance bonuses for use of sick leave for which medical authorization had been provided.

In addition, the factory reduced the amount of the quarterly "performance bonuses" workers could receive if workers failed to meet the company's production quotas – even though, as also

[91] Labor Code, Article 154 (4).
[92] Id.

discussed, these were, in many cases, unachievable unless employees worked off-the-clock, including during rest periods, and over-exerted themselves physically, sometimes to the point of physical collapse. Finally, when a worker was disciplined by the company, for failing to meet these production quotas as well as other offenses, Hansae, in some instances, imposed as a punishment delaying the implementation of the worker's next scheduled wage increase.

Vietnamese labor law generally prohibits employers from taking deductions from workers' wages, except where necessary to compensate the employer for damage to tools and equipment.[93] Moreover, in this case, Hansae's wage deductions have restricted workers' access to other legally mandated rights and benefits.

For example, as already discussed, Hansae's practice of deducting workers' attendance bonuses on account of employees' use of medically authorized sick leave penalized workers' availing themselves to this legally required benefit.[94]

Similarly, Hansae's punishing employees financially – through reduction of bonuses and delay of wage increases – for failing to meet production quotas which were excessive and unrealistic contributed to the violation of workers' rights to statutory rest periods,[95] specifically, and a safe and healthy workplace,[96] in general. Finally, such punitive wage deductions are prohibited generally under the Workplace Code of the FLA, with which Nike is required to ensure that Hansae comply.[97]

ii. Hansae Response

As discussed, according to workers, Hansae has ceased deducting workers' attendance bonuses on account of employees' use of medically authorized sick leave. The company has stated that it "will conduct [an] impact assessment on the [attendance] allowance deductions policy to review for unintended restrictions on leave and create plan to remediate based on root cause analysis of findings."

However, the factory claims that "[it] has reviewed disciplinary records and has not had any discipline for any worker if they don't reach production target." Moreover, Hansae commits that, going forward it will "ensure no discipline is done for not reaching production target."

Committing to refrain from punishing employees, including through delay of wage increases, for failing to meet production targets is a positive development. However, Hansae has not made

[93] Labor Code, Article 101.
[94] Social Insurance Law, Articles 2, 22 and 25.
[95] Labor Code, Article 106.
[96] CLC Code of Conduct, Schedule I. §II(2)(B)(6).
[97] FLA, "Monetary Penalties Used as Discipline in Vietnam" (Jun. 28, 2016), http://www.fairlabor.org/report/monetary-penalties-used-discipline-vietnam.

clear whether it is making a permanent commitment to cease deducting workers' attendance bonuses on account of their using sick leave.

Finally, Hansae, so far, has refused to compensate workers for the attendance and performance bonuses it deducted or the wage increases it delayed on account of its prior policies in this regard. Unless the company provides such compensation, workers will lack recourse for Hansae's violations of their rights and the company will not be deterred from reverting to its previous practices.

iii. WRC Additional Recommendations

The WRC recommends that Hansae:

- Agree that it will maintain a policy going forward of not deducting any attendance bonuses from workers on account of their using medically authorized sick leave; and
- Make workers whole through compensation for:
    - Any prior deductions of attendance bonuses on account of using medically authorized sick days;
    - Any past reductions of performance bonuses on account of failing to meet production quotas; and
    - Any prior delay of wage increases on account of discipline.

As of yet, Hansae has not accepted these recommendations.

D. Freedom of Association

Vietnamese labor law restricts associational rights for all workers by mandating that all unions in the country be affiliated with the Vietnam General Confederation of Labor ("VGCL"),[98] which, under its own governing rules, describes itself as "a member of the political system under the leadership of the Communist Party of Vietnam."[99] Since workers are prohibited by law from forming or joining an independent union, Hansae Vietnam, like all factories in Vietnam, violates the requirement, contained in virtually all university labor codes, that employers respect workers' associational rights, which include the right to form or join a union of their own choosing.[100]

[98] Law on Trade Unions, Law 12/2012/QH13 (Jun. 20, 2012), http://luatkhaiphong.com/Van-ban-Tieng-Anh/Law-No.-12/2012/QH13-dated-June-20-2012-6627.html.
[99] VGCL, *Statutes of the Vietnamese Trade Unions* (Nov. 5, 2008), http://www.congdoanvn.org.vn/english/details.asp?l=1&c=240&c2=240&m=557.
[100] ILO Convention 87 ("Workers … shall have the right to establish and … to join organisations of their own choosing without previous authorisation.").

While Nike's own labor code gives countries like Vietnam a pass on this issue, requiring respect for associational rights only "to the extent permitted by the laws of the manufacturing country,"[101] university codes do not. Indeed, many university codes go further and require proactive steps by licensees to challenge the status quo in their supplier factories in countries where this right is restricted, "tak[ing] effective actions…to achieve the maximum possible compliance" with respect to this fundamental right.[102]

1. Management Domination of Factory Labor Union

a. Findings

Like many other employers in Vietnam, Hansae further restricts freedom of association at its factory by having company managers serve as officers of the factory's union. Mr. Vo Van Hung, who has served as chairman of the Hansae Vietnam labor union since at least 2009, was, until very recently, also Hansae Vietnam's senior human resources manager.

Workers told WRC investigators, and the union president, himself, confirmed, that other Hansae managers hold official leadership positions in the union, and, indeed, that more than half of the union's executive committee is made up of top Vietnamese managers from the various factory buildings. The remaining members of the union committee are also closely tied to Hansae's management, and include other managers, human resources staff, and other office personnel.

For obvious reasons, having factory managers serve in leadership positions in a labor union that is supposed to represent workers' interests (representation that matters most in cases where workers' interests *conflict* with those of management) is a gross violation of workers' associational rights[103] – and one that Hansae Vietnam is under no legal obligation to commit, since Vietnamese law does not require managers to serve in union leadership positions.

By failing to challenge this practice, Nike, in addition to violating university code provisions requiring respect for associational rights (which is unavoidable in Vietnam), is also violating the provision of the CLC labor code[104] that requires university licensees, in countries like Vietnam,

[101] Nike Code of Conduct, *supra*, n. 11.
[102] The Collegiate Licensing Company's Labor Code Standards, for example, state that licensees, "shall recognize and respect the right of employees to freedom of association and collective bargaining…[and] in countries where law or practice conflicts with these labor standards, Licensees agree to consult with governmental, human rights, labor and business organizations and to take effective actions as evaluated by CLC, the applicable Collegiate Institution(s) or their designee, and the applicable Licensee(s) to achieve the maximum possible compliance with each of these standards." *See*, CLC Code of Conduct, at §II(B)(9) and §II(A).
[103] ILO Convention 98 § 2 ("Workers' … organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration…. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.").
[104] Where universities have chosen to apply the CLC Code of Conduct to their Nike licenses.

to "take effective actions…to achieve the maximum possible compliance"[105] with the code's standards. Violations of that provision are avoidable, if a licensee is willing to prohibit such egregious practices as having factory managers run the workers' union, but Nike has evidently not done so at Hansae Vietnam.

It is important to note that workers at Hansae Vietnam – despite being denied a representative union, despite being saddled, instead, with a union that has factory managers in leadership positions, and despite severe limitations on the right to strike under Vietnamese law – have repeatedly engaged in self-organized strikes[106] to challenge abusive treatment and other violations of the labor law, including the strikes that occurred at Building 5 last year. According to worker testimony, these strikes are carried out by workers over the opposition of the official union leadership.

b. Hansae Response

Since the WRC initially reported on the freedom of association violations at Hansae, the union chairman has reportedly left his position as the factory's Senior Human Resources Manager. However, the union chairman's new title is "H.R. consultant" to Hansae, with the result that he is clearly just as subject to conflict of interest as in his prior position. In addition, the union's vice-chair, who is also a human resources manager, reportedly has volunteered to resign from his union office.

Hansae has agreed that no current factory manager should stand for office in the union's next elections for its executive committee, which will be held in the spring of 2017. While these are positive developments, they are unlikely, by themselves, to be effective in insulating the leadership of the factory union from domination and interference by Hansae management, since the company could simply recruit former managers, line supervisors, and front office personnel to serve on the committee in place of the current leadership.

c. WRC Additional Recommendations

The WRC recommends that Hansae broaden the scope of its prohibition on current managers serving as union officers to also preclude the possibility of former managers, and current or former supervisors and confidential employees occupying these offices.

As yet, Hansae has not accepted this recommendation.

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[105] *See*, CLC Code of Conduct, §II(A).
[106] Phương Kỳ & Trọng Hiếu, "Hundreds of striking workers at the company Hansae Vietnam," *Bao Moi* (July 3, 2013) http://www.baomoi.com/tphcm-hang-tram-cong-nhan-dinh-cong-tai-cong-ty-hansae-viet-nam/c/11387993.epi (in Vietnamese); Anh Thu, "One executive temporarily suspended from work," *Hanoi Moi* (August 12, 2005) http://hanoimoi.com.vn/Ban-in/Phap-luat/68224/t7841%3Bm-273%3Binh-ch7881%3B-cong-tac-m7897%3Bt-giam-273%3B7889%3Bc-273%3Banh-cong-nhan (in Vietnamese).

E. Hiring and Terms of Employment

1. Recruitment Fee Violations

a. Findings

Vietnamese law prohibits employers from making workers pay recruitment fees as part of the hiring process; under the law, the employer is required to bear all costs related to recruitment and hiring.[107] Since university labor codes require compliance with all local labor laws, university codes also prohibit this practice. Charging recruitment fees is also prohibited by many buyer codes of conduct (though, in Nike's case, the prohibition applies only to workers migrating from other countries).[108]

Some Hansae Vietnam managers require some job applicants, primarily those who are male, to pay a fee in order to be hired at the factory, or, subsequently, to have their initial probationary contracts with the factory renewed. Since there is no basis under Vietnamese law for the imposition of such fees, and since the solicitation appears to be made by certain managers of their own personal volition, these fees are more properly classified as "bribes," extorted from workers who are made to understand that their application will be rejected if they do not pay.

While requiring job applicants to make such payments to managers does not appear to be an official policy of the company, it is nonetheless the responsibility of Hansae to prevent illegal practices by managers that cause harm to workers, and the company has failed to do so in this case. Hansae Vietnam is therefore in violation of Vietnamese law and university codes of conduct.

While about half of those workers who were asked about this practice were not aware of it at all (the WRC was not able to ask all the workers we interviewed about this issue), at least nine different workers testified that the practice is common in the case of male workers. At least five of these workers stated that they had personally been required to make these payments; one worker testified that he had done so three times, because he had twice left his job at the factory for personal reasons and later sought to return.

According to worker testimony, the affected applicants are typically required to pay from 1 million to 4 million VND (from USD 45 to 180) to obtain employment at the factory. This represents from 10 days up to six weeks' wages at the legal minimum rate – a substantial burden for workers who rarely have any savings, may have to borrow the funds to make the payment, and then devote a significant percentage of their already low wages to paying off this debt. These bribes are a type of wage theft – a practice that comes in many forms in the garment industry and

[107] Labor Code, Article 20 (2).
[108] *See e.g.*, Nike Code of Conduct, *supra*, n. 7.

has the effect of deepening the economic hardship of workers whose meager wages already often leave them impoverished.

Workers report that such bribes are usually demanded by the managerial employees who receive their job applications, but in some cases by another more senior manager who conveys the demand for a bribe, via a worker who is a relative of the job applicant. One worker who had been forced to pay such a bribe told WRC investigators, "I gave the money directly to the person handling my application. Many workers have to pay to get a job, especially, if you are from outside Ho Chi Minh City."

It is unclear why this predatory practice affects primarily male job applicants – though this may relate to the preference of many factories in Vietnam for hiring female workers for the sewing positions that represent the bulk of factory employment and the resulting relative scarcity of jobs that are actually open to male workers.

b. Hansae Response

Workers told the WRC that, in May 2016, the management in one factory building made an announcement that any worker aware of managers demanding bribes from job applicants should report this to the company. Hansae says that, around this time, the factory stopped allowing the managers of its production lines to directly recruit workers and centralized recruitment in the head office to prevent the extraction of the recruitment fee from workers. However, several factory buildings at Hansae retained direct recruitment channels, whereby workers could send the job applications of their acquaintances or relatives to their line supervisors.

In October 2016, Hansae reported that it had further centralized its recruitment process so that all job applications now go through the company's human resources department in its main office. The company also stated that it had investigated the issue of job applicants paying recruitment fees, but had found only one such case. Hansae told the WRC that it had disciplined the supervisor involved in that incident, by delaying her next wage increase, and had required the latter to reimburse the worker who paid the recruitment fee. However, workers from Factories 6 and 9 also reported other recent cases where supervisors were punished for soliciting recruitment fees, but the employees who paid the fees apparently received no compensation.

The policy of centralization of recruitment, if maintained, constitutes an effective mechanism for preventing further solicitation of bribes during the recruitment process. However, it is clear that a substantial number of workers were victimized in the past by this practice – of the 35 employees interviewed by the WRC, 5 employees (14%) testified to having made such payments. Assuming this sample is at all representative of Hansae's 8,500 employee workforce (which the WRC does not have reason to doubt), upwards of 1,000 workers may have been required to make such payments, and deserve to be compensated.

c. WRC Additional Recommendations

The WRC recommends that Hansae:

- Reimburse or require supervisors to reimburse all affected employees for any recruitment fee for which an employee presents a credible claim, with supporting details; and
- Announce to workers the availability of such reimbursement and that employees will not face any retaliation for making such a request.

d. Hansae Response to WRC Additional Recommendations

Hansae agreed to "set[] up a system where others who paid recruitment fees can file a complaint for the factory to investigate and pay back the fee based on the finding." Such a system, if it ensures that compensation is provided to the affected workers, would resolve this issue. Hansae should share the details of this system to the WRC, FLA, and Nike, and agree to modifications where needed to ensure that reasonable compensation is provided.

2. Unlawful Coerced Resignation

a. Findings

Hansae workers reported that it is common for managers, when they wish to get rid of a disfavored worker, to tell the worker she or he must resign, rather than to dismiss the worker for cause. Review of company records confirmed these reports, and showed that in some cases, the company had faked timekeeping records to give the appearance that employees had resigned voluntarily for personal reasons or ill health, and worked out their notice periods, when, in fact, the workers had been forced to leave the factory immediately, on account of conduct that was disfavored by the management.

These records indicated that Hansae management utilized forced resignations when it wished to dismiss employees for offenses which were not serious enough, in themselves, to justify immediate discharge under the company's internal rules and the workers' employment contracts – such as workers bringing their own needles to the factory, having arguments with managers, or failing to meet production quotas. Because Vietnamese law does not contemplate at-will employment, and, except in limited circumstances, only permits employers to terminate workers involuntarily when the employee has violated the terms of the employment contract,[109] the practice of involuntary resignation represents a clear attempt by Hansae to avoid its obligations under the country's labor law.

Such cases were reported widely enough – by workers in Factories 7, 8, and 12, as well as in the company's cutting operation – to suggest that the use of involuntary resignation, instead of

[109] Labor Code, Article 38.

termination, of employees is a practice that has been broadly used by Hansae's management. Finally, as discussed further below, in at least one case, a worker whose forcible resignation was falsified to appear voluntary had been the victim of physical abuse by a foreign manager, and that the latter received no disciplinary action over this incident.

b. Hansae Response

Hansae's response to the findings of involuntary resignation was to simply promise to correct this practice going forward. The company states that it has "revised the disciplinary procedure [so] that all disciplinary cases will be calibrated before implementation in the weekly disciplinary case review meeting ([involving the] general manager, trade union, witness, and worker violator) to ensure that all disciplinary cases are implemented in accordance with the law and factory policies (compliance, fairness, consistency)." The company made no commitments, however, to address the cases of those employees who already had been identified as having been illegally forced to resign, which is necessary for these violations to be adequately remedied.

c. WRC Additional Recommendations

The WRC recommends that Hansae offer reinstatement with back pay to all workers identified as having involuntarily resigned, noting that if Hansae's management had valid cause for terminating any of these employees, it could, after reinstating these workers, still discharge them through the legal termination procedure.

d. Hansae Response to WRC Additional Recommendations

Hansae initially rejected the WRC's recommendation of reinstatement with back pay for workers who had been illegally forced to resign, claiming that "[t]he factory does not know [of] any case about involuntarily resign[ation]." The WRC reminded Hansae that there have been multiple specific reports of involuntary resignation identified across the company's factories that have been corroborated in company records.

Hansae subsequently modified its position stating that "if there is any case that employees involuntarily resign, the factory will reinstate with pay back." Most recently, Hansae has stated that "[t]he factory will … set up a system including communication to workers and unions to reinstate with back[-]pay should a former worker demonstrate termination was made without just cause." However, in the case of the workers who involuntarily resigned, the company dismissed these employees in violation of legal standards, and therefore they should receive back pay and be offered reinstatement, regardless of whether the factory *could hav*e terminated them according to the law's requirements.

3. Employment Contracts

a. Findings

It was found that Hansae employed significant numbers of workers on a temporary basis – with the number varying over time from 33 to more than 300 – to perform the same ongoing work as regular employees. This practice violated the prohibition under Vietnam's labor code of employing workers on a seasonal basis to perform jobs which exist on a regular basis year round, except in order to replace other workers who are on temporary leave of absence.[110]

b. Hansae Response

Hansae committed to only employ workers on temporary contracts to fill production needs that are actually seasonal in nature, such as to enable the company to temporarily supplement the regular workforce during peak production periods. Hansae provided copies of revised employment contracts that it will issue to seasonal workers that specify the duration and nature of the duties that these employees will perform, and lists of the workers who will be provided these agreements. Assuming that Hansae fulfills these commitments, this will adequately address the violation.

4. Employee Health Exams

a. Findings

Vietnamese law requires job applicants to provide a certificate of health status to prospective employers, based on a medical check-up.[111] The law also requires workers, once hired, to have a health check-up every 12 or six months, depending on the nature of the job and the age and health of the worker, the cost of which must be borne by the employer.[112]

A review of factory records found that newly hired workers had paid for certain health check-ups whose results they had submitted to the company, raising the issue of whether these were examinations for which the company was legally obligated to pay. Vietnamese labor regulations exempt employers from the obligation to pay for documents included in the "dossier of registration for recruitment examination" that job applicants are required to submit, which includes a "health check by competent medical agencies."[113]

b. Hansae Response

Hansae claimed that the health check for which employees had paid were submitted as part of their job application, an expense which the company was not required to reimburse. Hansae

[110] Labor Code, Article 22 (3).
[111] Decree 39/2003/NĐ-CP, Ch. II, Article 8.
[112] Circular 14/2013/TT-BYT, Articles 3, 6 and 15.
[113] Decree 39/2003/NĐ-CP, Chapter II, Article 8.

committed that if the factory required any "additional health check up by the factory during [the] recruitment process," the company would pay for this expense. Whether Hansae's response is adequate to address this issue depends on whether the health check for which employees paid were, in fact, submitted as part of workers' original job application or subsequently required by the company.

c. WRC Additional Recommendations

The WRC recommends that a review be conducted of the health checks whose expenses have been previously flagged as having been paid by employees. If these are found to have been required by Hansae, instead of having been submitted by employees with their original job applications, the company should, per its recent commitments, reimburse workers for this expense.

Hansae has not, as of yet, accepted this recommendation.

F. Harassment and Abuse

1. Findings

University labor codes prohibit abuse and harassment of workers. The CLC labor code, for example, which includes a section devoted to the issue, forbids "physical, sexual, psychological or verbal harassment or abuse" of any employee.[114] It further requires that "every employee shall be treated with dignity and respect."[115] Vietnamese labor law also prohibits "maltreatment" of workers.[116] Virtually all corporate labor codes, including the Nike code, also ban all forms of abuse and harassment of employees.[117]

According to credible and mutually corroborated worker testimony, workers at Hansae Vietnam have been subjected to multiple forms of harassment and abuse by company supervisors and managers, in violation of university codes and Vietnamese law, for which these managers and supervisors have not been held accountable:

- Workers have been subjected to physical abuse, including at least four reported incidents of such mistreatment involving workers and managers in multiple factories, among them one recent incident which is reflected in company records, and another, much older incident that was covered in the local news media.

[114] CLC Code of Conduct, §II(B)(8).
[115] See, e.g., Nike Code of Conduct, *supra.* n. 7.
[116] Labor Code, Article 8.
[117] Nike Code of Conduct, *supra*, n. 7.

- Workers have been subjected to verbal abuse in the form of managers shouting at workers, insulting them in profane terms, and threatening disciplinary action as a means of humiliation and intimidation.

- Workers have been subjected to degrading restrictions on the use of toilets and harassed by managers while in the bathroom or while entering or exiting the bathroom.

- Workers in a production building where Nike products are made have been subjected to tyrannical practices in which workers were forbidden to yawn on the job or bring ice to work, and were subjected to disciplinary action for disobeying these arbitrary rules.

a. Physical Abuse

Acts of physical mistreatment of workers by managers at Hansae Vietnam have occurred in multiple factories at the facility over an extended period of time. Local Vietnamese-language news reports[118] make reference to physical abuse of workers at the factory in the past, including a case in 2005 where a Korean manager beat and kicked 20 women workers.[119] More recently, a case was reported in Hansae's Factory 7 in which a foreign manager physically abused a worker, yet the worker victim was dismissed by the factory, while the assailant manager was not even disciplined.

Reportedly, in the more recent incident, the manager grabbed an item that the worker was sewing and shouted at the worker for not reaching the assigned production quota. When the employee then pulled the bag back to continue working on it, the manager attempted to assault the worker with a metal stick until restrained by other personnel.

After this incident, the worker victim was terminated, but told to sign a letter stating that the employee was leaving the factory voluntarily for personal reasons. In order to conceal the dismissal, the worker's ID card was swiped-in and out, and the employee continued to be paid, for the following 45 days, the required notice period for termination. No reprimand or other disciplinary action was taken against the assailant manager despite this illegal and abusive conduct.

b. Verbal Harassment

A majority of workers interviewed by WRC investigators testified to having experienced and/or witnessed one or more forms of verbal harassment at Hansae. The WRC received testimony about verbal abuse from workers employed in eight different production buildings, including three buildings reportedly engaged in production for Nike.

[118] *See, e.g.,* Phương Kỳ & Trọng Hiếu, "Hundreds of striking workers at the company Hansae Vietnam," *Bao Moi* (July 3, 2013).
[119] Anh Thu, "One executive temporarily suspended from work," *Hanoi Moi* (August 12, 2005).

Workers reported that some managers routinely shouted and yelled at workers when employees committed a production error, were perceived as working with insufficient haste or zeal, or sought permission to leave the factory (e.g., to take leave or decline overtime hours). According to worker testimony, this verbal abuse often involved the use of vulgar insults: with some managers calling workers "bastards," "stupid," "chicken heads," and similar epithets.

Most workers interviewed by the WRC were very reluctant to quote verbatim the vulgarities to which management subjected them – a hesitancy that is common in the worker interview process. Some workers were, however, willing to quote managers directly. In addition to the aforementioned use of the term "bastard," other profanities attributed to Hansae managers include "asshole," "fuck you," and "cow," the last of these directed specifically at female employees. As a result of workers' reticence on this subject, it is likely that the complete repertoire of insults utilized by Hansae managers has not come to light, but the examples workers did provide are sufficient to demonstrate the nature of the practice.

Workers testify that it also has been common for managers to threaten workers with dismissal if they don't display whatever level of production speed, obedience to management, or schedule flexibility managers are demanding – and to tell them mockingly that they should simply quit. According to one female worker, her manager became enraged when she was struggling to meet a high production target one day and yelled, "If you can't finish, just quit! If you don't know the work, then leave!" Another worker described a recent case of a female co-worker quitting in humiliation after managers yelled at her repeatedly in front of other workers and threatened her with dismissal.[120] Another worker, one who was actually less critical of management than most, nonetheless confirmed management's verbal harassment of workers, citing the example of managers yelling threats of mass layoffs if workers did not work faster.

Workers attribute more of the harassment and abuse to (generally lower level) managers of Vietnamese nationality than to (senior) Korean managers. It is unclear whether this reflects less abusive tendencies on the part of senior managers or merely reflects the fact that workers have more contact with lower level managers.

A number of workers also decried the role of managers they refer to as "specialists," who, according to workers, are not Vietnamese, but are either Korean or are nationals of other Asian countries, including China, Japan, and the Philippines. Workers were unable to provide a detailed explanation of the exact role of these "specialists," but some described them as "technical experts" and workers made clear that the specialists have significant managerial authority, outranking direct supervisors.

[120] Notably, the witness said she could not put WRC investigators in touch with this worker because the intense work pressure at Hansae had made it impossible to interact with her socially, so she had never gotten to know her, although the worker apparently worked close by the witness.

Workers from several different production buildings reported that the specialists have been the biggest offenders in terms of verbal harassment and abuse, testifying that it has been common for specialists to yell, swear, and treat workers rudely. Said one worker, "The specialists are very impolite and use coarse speech and yell." This worker did not discount the possibility that workers deserved criticism, but expressed the reasonable opinion that this criticism should not be expressed disrespectfully (as is, in fact, prohibited by Vietnamese law and university labor codes).

c. Abusive Restrictions on Toilet Access

Another form of abuse to which Hansae workers report having being subjected is degrading restrictions on the use of the factory's toilets. As discussed in the prior section in this report concerning the problem of employees fainting from a combination of overwork, high heat levels, and insufficient rest, many workers report that their practice has been to take only one or two brief bathroom breaks per day, and sometimes none, because any time away from their work stations caused them to miss what they describe as excessive production targets and therefore face verbal abuse and potential dismissal. In addition to those restrictions, which are indirect products of the intense pressure on workers to produce rapidly, workers also reported direct restrictions on bathroom use imposed by some factory managers.

Most commonly, workers described an informal practice of managers harassing workers who were perceived as using the toilet too frequently or for too long. Workers from several different production buildings told WRC investigators that some managers followed workers to the bathroom, on some occasions actually entering to insist that workers return to their work stations. One worker said that this management harassment meant that a worker "can't go to the bathroom for more than five minutes."

According to worker testimony, some managers have taken photographs of workers entering or exiting the bathroom, a practice that served both to humiliate and intimidate – with workers assuming that the reason managers were taking photographs was to create a documentary basis for dismissal. One worker reported the role of a senior manager and of high-ranking "specialists" in this practice: "[W]hen workers go to the toilet, sometimes the vice-manager or some of the specialists will follow and take pictures of the workers. They don't care whether they have been to the toilet for long or not."

In addition to the practice of informal harassment, several workers testified that in the areas, or production lines, where they work, toilet access had been officially limited, usually to two brief visits per day, at times determined by management. There is sufficient evidence from worker testimony to conclude that this practice existed in at least some parts of some production buildings, though the number of workers reporting it has been modest. One of the places where workers reported the practice is Building 5, which produces Nike goods and, as discussed earlier, was the scene of multiple strikes in the fall of 2015. Worker testimony indicates that a policy

restricting bathroom visits to a maximum of two per day was one of the abuses that led to the worker protests.

Both informally harassing and photographing workers who are attempting to enter the bathroom to relieve themselves, and formally restricting the freedom of workers to do so, are serious forms of psychological abuse that have no place in any garment factory and are clearly illegal under Vietnamese law[121] and clearly barred by university labor codes.[122] Moreover, in combination with the de facto restrictions on toilet use caused by intense and relentless production pressures, these informal and formal managerial restrictions cause a work environment in which large numbers of Hansae workers often have been unable to go to the bathroom when needed – a circumstance that is not only degrading, but physically unhealthy.

d. Punishments for Yawning and Bringing Ice to Work

One particularly perverse form of abuse, apparently restricted to Building 5, and also a precipitating factor in last year's strikes, have been managerial policies forbidding workers in that building from yawning on the job or bringing ice to the workplace (a means of reducing the discomfort caused by the extremely high heat and humidity levels in many factory buildings). According to worker testimony, including that of workers who directly experienced this abuse, those workers who "violated" the bans on yawning and on bringing ice were subjected to official disciplinary warnings (of the type that can ultimately lead to dismissal). While this practice was apparently limited to a single production building, it is a building that houses many hundreds of workers, all of whom were apparently subject to this cruel, degrading, and arbitrary form of managerial abuse; it is also a building that produces Nike goods.

2. Hansae Response

According to recent interviews with workers, since the WRC released its initial report in May, verbal harassment of employees has been significantly moderated, arbitrary and abusive policies, such as the former prohibitions on yawning and bringing ice, have been discontinued, and new incidents of physical abuse of workers have not been reported. In addition, as previously discussed, both formal policies and informal practices restricting workers' access to toilets have been removed.

These changes are clearly the result of directives from the company that such harassing and abusive conduct by managers, supervisors and "experts" towards workers is no longer expected or tolerable. One worker told the WRC, "The company has given instructions that the supervisors and experts are not allowed to shout or use bad words. The behavior of the supervisors has improved and they no longer shout or swear at us."

[121] Labor Code, Article 8 (2).
[122] Collegiate Licensing Company, §II (B)(8).

However, some degree of verbal harassment occurs, although it is clearly less offensive and intense as was previously the case. Another worker stated,

> Our line leader's behavior is better now – she supports the workers to achieve the targets, instead of shouting at us. Other line leaders also don't shout [at workers] as much as before, too. They still shout sometimes, but they have improved as well.

For its part, Hansae states that the company "commits to strictly implement [a] non-harassment and abuse policy" and "will organise a meeting to communicate … to all workshop managers to re[i]nforce the current harassment and abuse policy that verbal and physical harassment is not allowed and violation to this policy is subject to the factory disciplinary policies." Moreover, with respect to workers' access to the factory's toilets, Hansae says that it has "announced to all employees and factory management about the policy of free access to toilet."

However, Hansae still does not appear to have actually imposed any discipline on supervisors who have engaged in abusive conduct toward employees, including the supervisor who was implicated in the most recent incident of physical assault. Moreover, despite the fact that the worker who was victim of this incident was illegally forced to resign from the company, Hansae failed to provide this employee with any form of compensation, much less reinstatement to the factory. Until the factory takes concrete remedial measures in this regard, this very serious violation cannot be said to have been fully corrected.

3. WRC Additional Recommendations

The WRC recommends that Hansae:

- Provide the worker who was the victim of the most recent reported incident of physical abuse with back pay and reinstatement;
- Impose meaningful discipline on the manager responsible for this incident; and
- Commit, going forward, to discipline supervisors and managers who verbally or physically abuse workers, or harass employees for toilet use.

4. Hansae Response to WRC Additional Recommendations

Hansae committed that it would "reach out to the worker who was fired for the dispute with a foreign manager … to allow reinstatement with back pay" through the factory's grievance procedure. However, Hansae still has not accepted the WRC recommendation with respect to disciplining the assailant manager.

G. Gender Discrimination

1. Pregnancy Discrimination

a. Findings

i. Discriminatory Termination

It is illegal under Vietnamese labor law "to dismiss a female employee or unilaterally terminate the employment contract of a female employee due to the employee's marriage, pregnancy, maternity leave, or her nursing a child under 12 months of age."[123] Such discrimination is therefore illegal under university labor codes, which require compliance with local law and which also include, in most cases, their own explicit provisions barring gender discrimination and, in some cases, specifically barring discrimination based on pregnancy,[124] a prohibition also found in Nike's code.[125]

A substantial number of the Hansae workers interviewed by the WRC, including half of the women workers interviewed, testified that it has been the practice of Hansae management not to renew the contracts of pregnant workers who are on short-term labor contracts. According to some workers, management also sometimes dismisses pregnant workers on long-term contracts or pressures them to resign. Two workers testified to having multiple personal acquaintances at Hansae who were dismissed, forced to resign, or had their employment contracts non-renewed after becoming pregnant. All these practices violate Vietnamese law and university labor codes.

Under Vietnamese law, workers who are pregnant or are nursing a child under 12 are entitled to a number of protections and benefits that impose financial and logistic costs on the employer, including limitations on hours of work, a requirement that light duty work be provided with no loss of pay, a prohibition on subjecting the worker to disciplinary measures, and an entitlement to an additional 60 minutes of break time, with full pay, during each workday.[126]

Factory managers therefore have a substantial financial incentive to minimize the number of pregnant workers in their employ. Indeed, as discussed below, in the case of pregnant workers who have remained employed at the factory, Hansae has attempted to avoid some of these obligations.

One Hansae worker described the case of a pregnant co-worker who, after her pregnancy became known, was required by management to train another worker to do her job; when the training was successfully completed, the pregnant worker was dismissed. The same witness described another co-worker who was pressured to resign halfway through her pregnancy and, after being

[123] Labor Code, Article 155 (3).
[124] Collegiate Licensing Company, §II (B)(7).
[125] Nike Code of Conduct, *supra*, n. 11.
[126] Labor Code, Articles 155-159.

threatened with punitive transfer to another production building, agreed to do so. A different witness stated that she has several acquaintances that had become pregnant while on one-year employment contracts at Hansae and that none of their contracts had been renewed.

It is not fully clear how widespread this pregnancy discrimination is at Hansae. Workers in several different production buildings, including Factories 5, 8, 9, 11, and 12, testified to being aware of this practice, but workers in some buildings stated that they were not aware of such a practice. The majority of workers who testified to the existence of the practice understand it to apply mainly to workers on short-term contracts, whose employment is far easier for management to discontinue.

ii. Lack of Accommodation for Pregnant Workers

Vietnamese law requires that once workers reach the seventh month of pregnancy, they must be afforded accommodation in the form of either shorter working hours – a maximum of seven per day – or transfer to a lighter work assignment without a loss of pay.[127] Hansae's compliance with this requirement has been inconsistent – some pregnant employees have received shorter working hours, some lighter job duties, but others, reportedly, no accommodation at all. Moreover, it has been managers, not workers and/or their physicians, who have been determining what kind of accommodation employees will receive.

Interviews with Hansae workers indicated that some pregnant employees worked in excess of the legal maximum of seven hours per day, while others did receive shorter hours. Company time records were inconsistent on this issue with some indicating that pregnant employees only worked seven hours, while other documents showed the same employees working the factory's regular eight-hour shift.

At the same time, the company practice also appeared inconsistent with respect to whether workers received lighter duties in their job assignments. In some factories, workers testified that pregnant employees did receive such accommodation, while, in others, workers reported that the job duties of these employees, including the production quotas they are assigned, remained unchanged. Said one employee, "The company does not care about workers who are pregnant … for instance an eight-months pregnant worker was still lifting heavy things to put on a high shelf."

b. Hansae Response

Hansae responded to the finding that it had discriminated against pregnant employees by stating that it had reviewed its personnel records and had not found any cases where the factory terminated employees due to pregnancy. Specifically, Hansae reported that it had re-signed employment contracts with 25 out of 29 workers who were pregnant when their agreements

[127] Labor Code, Article 155(2).

came up for renewal. Hansae claimed that, in the case of the four remaining pregnant employees, whose contracts were not renewed, the company's actions were based on these employees' job performance, and not their pregnancy status.

Hansae committed that, going forward, the company would "communicate to all workshop managers and [the company's] Human Resource team that labor [contract] renewal is solely based on job performance review (performance, attitude, team work), and it is not based on pregnancy status." The company further promised that "[a]ll non-renewal[s] of labor contract[s] will be reviewed by a team consisting of one senior manager before implementing. If the first review result is failed [i.e., non-renewal], a second review will be conducted by [the] HR department before its implementation."

With respect to the findings that the factory had failed to provide legally required accommodations in working hours and/or job assignments to pregnant workers, Hansae claimed that company records showing that these employees did not receive reduced hours were inaccurate, and asserted that it is in the factory's discretion whether to provide these employees with reduced hours rather than lighter job duties.

The WRC found the company's denial that any cases of pregnancy discrimination had occurred based on a review of company records unconvincing, as extensive worker testimony was consistent and mutually corroborating on this issue, while personnel documents are unlikely to admit when an employee has been terminated for being pregnant.

Currently, workers report that Hansae does consistently provide pregnant employees with shorter hours, but is inconsistent as to whether pregnant workers are able to opt for lighter job duties, instead, with some workers indicating these are provided and other testifying that they are not. As noted, Hansae insists that it is legally within the company's discretion to decide which accommodation to provide.

Most recently, Hansae indicated that it would survey the entire workforce and provide whichever form of accommodation the majority selects. However, since, from the standpoint of worker health and safety, the determination of whether shorter working hours or lighter duties is more appropriate in any given case depends on the individual health status of the pregnant employee, the WRC reiterates its recommendation that the individual affected worker be afforded this choice.

c. WRC Additional Recommendations

The WRC recommends that Hansae:

- Offer reinstatement with back pay to any former employee who can demonstrate involuntary termination without valid cause during a prior pregnancy, including by

notifying current employees, as well as former female employees who were involuntarily terminated, of the availability of this remedy; and

- Offer employees, starting in their seventh month of pregnancy, a choice between light duty and shorter working hours.

d. Hansae Response to WRC Additional Recommendations

Hansae stated that it would "commit to reinstating and [providing] backpay[,] should a former worker demonstrate that [her] contract was not renewed due to pregnancy status," and, also, "notify the pregnant employees who did not have their contract renewed of th[is] new policy." The WRC recommended that, in order to ensure that all potentially affected workers were informed of this policy, Hansae should notify all female workers who were involuntarily terminated or had their contracts non-renewed of this policy. Former employees would have to show proof of having been pregnant at the time of dismissal (as well as a reasonable claim of lack of cause) in order to seek reinstatement.

2. Hiring Discrimination

a. Findings

It was found that Hansae had posted an online notice of a job opening at the factory for a quality control position, which, in violation of local law,[128] discriminated against potential applicants on account of their gender. The posting specified that Hansae was seeking only female applicants for this position.

b. Hansae Response

Hansae removed the gender requirement in the job vacancy posting in question, and committed that, going forward, Hansae also committed that it would "create [a] standard job vacancy announcement form to only include job related qualification information to ensure there is no discrimination factor (gender, age, nation, appearance, disability...)." The WRC considers these to be adequate remedial measures.

H. Potential Finding – Paid Breaks

Shortly before finalization of this report, the WRC's review of company records obtained during the October visit to Hansae identified a potential additional issue of concern regarding the company's practices with respect to providing paid rest breaks. The WRC is discussing this issue with Nike and the FLA and we may report further on this subject in the near future.

[128] Labor Code, Article 8.

IV. Nike's Response to Additional Recommendations and Next Steps

The WRC has asked Nike to commit to require Hansae to accept, and implement, all of the additional recommendations, discussed in this report, to which Hansae has not yet agreed. The WRC provided Nike with a detailed list of the necessary actions, which are also supported by the FLA. Nike has responded with a communication stating that "NIKE will require Hansae to remediate violations of law, NIKE's Code of Conduct and Code Leadership Standards, including those identified in the new WRC findings. NIKE will also seek further commitments from Hansae to implement changes that provide greater protection for its employees."

The WRC understands this statement to constitute a commitment by Nike to require Hansae to carry out the remedial actions we listed, among them:

- Reforming its production quota and overtime systems, using quotas based on the average productivity of operators working at a reasonable pace, and an 'opt-in' form for worker to volunteer for overtime; and reversing and compensating workers for past discipline or penalties for failing to meet prior production quotas and/or work overtime;
- Providing compensation to affected workers that makes them whole for any other lost income resulting from:
    - Failing to prevent solicitation and acceptance by managers of payments for hiring or renewal of employment contracts;
    - Permitting off-the-clock overtime before shifts and during rest and meal periods;
    - Incompletely implementing scheduled wage increases and/or reducing the overall amounts of registered supplemental allowances;
    - Failing to make social insurance contributions or provide childcare allowances during employees' probationary periods;
    - Deducting attendance bonuses on account of workers taking medically authorized sick leave or family leave;
    - Misclassifying leave for work-related injuries (including commuting injuries) as ordinary sick leave;
    - Permitting workdays of more than 10 hours without an additional 30-minute break; and
    - Any instances of failing to reimburse for health check-ups required by the company in addition to those submitted with employees' original job applications;

- Reinstating with full back pay all workers who have been:
    - Physically abused by company managers;
    - Discriminatorily terminated or had their employment contracts non-renewed on account of pregnancy; or
    - Forced to resign rather than being terminated according to the legally required procedures;
- Consistently maintain temperatures in Hansae's factories within the 32 degrees Celsius/ 90 degrees Fahrenheit compliance limit, including by, if necessary, installing air conditioning in these facilities;
- Providing backed, adjustable, padded chairs that meet minimum ergonomic standards, for all workers who operate machinery in a seated position;
- Ensuring fire safety by removing from any door in any exit or exit way any bolting or other mechanism that could inhibit egress at any time; and installing hardwiring and back-up power for all emergency signage and lighting;
- Allowing workers to use, without penalty of any kind, medically authorized sick leave and family leave; and meaningfully consult with workers on scheduling of annual leave;
- Providing each employee in the seventh month of pregnancy and beyond a choice of workplace accommodations between reduced working hours or lighter job duties;
- Prohibiting current or former managers, supervisors and confidential employees from serving as officers or executive committee members of the factory trade union; and
- Meaningfully disciplining any managers who have committed physical abuse or harassment of, or have accepted recruitment fees from, factory workers.

Nike has indicated that it will continue to work with Hansae to revise and enhance the corrective action plan, in order to include these commitments, and will provide the WRC with these revisions. These further revisions to the plan will provide a clear indication as to whether Nike has secured all of the necessary commitments from Hansae.

We will also continue to monitor events in Vietnam to ensure that the factory follows through on the remediation pledges it has made. Hansae's past labor rights performance warrants concern as to whether the company will fulfill its commitments to correct past harm and comply with applicable law and standards going forward. Vigilance will be essential.

Ultimately, it is Nike's obligation, under university labor codes, to use the means at its disposal to secure and maintain compliance at this supplier factory. We will assess progress through ongoing communications with Nike and Hansae, and through continued offsite worker interviews, and we will update universities, as needed. We understand that the FLA will also measure progress, via its own procedures.

Appendix

Report of Occupational Health and Safety Audit at Hansae Vietnam Company Limited in Cu Chi Industrial Zone, Ho Chi Minh City, Vietnam

REPORT OF OCCUPATIONAL HEALTH AND SAFETY AUDIT AT HANSAE VIETNAM COMPANY LIMITED IN CU CHI INDUSTRIAL ZONE HO CHI MINH CITY, VIETNAM

PREPARED FOR:

THE WORKER RIGHTS CONSORTIUM

5 THOMAS CIRCLE NW, FIFTH FLOOR

WASHINGTON, D. C. 20005

OCTOBER 21, 2016

PRESENTED BY:

MAQUILADORA HEALTH AND SAFETY SUPPORT NETWORK

P.O. BOX 124

BERKELEY, CALIFORNIA 94701

AND

ALLIANCE CONSULTING INTERNATIONAL

3361 28TH ST.

SAN DIEGO, CALIFORNIA 92104

REPORT OF OCCUPATIONAL HEALTH AND SAFETY AUDIT AT HANSAE VIETNAM COMPANY LIMITED IN CU CHI INDUSTRIAL ZONE, HO CHI MINH CITY, VIETNAM

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REPORT OF OCCUPATIONAL HEALTH AND SAFETY AUDIT AT HANSAE VIETNAM COMPANY LIMITED IN CU CHI INDUSTRIAL ZONE, HO CHI MINH CITY, VIETNAM

1.0 INTRODUCTION

The Maquiladora Health and Safety Support Network (MHSSN) and Alliance Consulting International (Alliance) are pleased to present The Worker Rights Consortium (WRC) the results of the Occupational Health and Safety (OHS) Audit of operations at the Hansae Vietnam Company Limited (Hansae) facility located in the Cu Chi Industrial Zone of Ho Chi Minh City (HCMC), Vietnam. The site audit was conducted on October 13 and 14, 2016 at the request of WRC. The audit was performed by Garrett Brown, MPH, CIH, MHSSN's Coordinator, and Enrique Medina, MS, CIH, CSP, President of Alliance with coordination from Mr. Bent Gehrt, WRC's Field Director for Southeast Asia.

The introduction to this report describes the scope of work and the Site's background. Section 2.0 presents a summary of the findings of the site inspection and document review. Section 3.0 presents the study limitations. The Attachment section contains the Corrective Action Plan with a complete list of findings, recommendations, and regulatory citations, and the Program Analysis of Hansae's OHS Program.

1.1 Scope of Work

The purpose of the OHS audit was to make an evaluation of conditions at the Hansae facility (which includes 12 separate factories and other buildings) and the status of regulatory compliance with current Vietnam health and safety laws and regulations, guidelines of the Better Work Program's (BW) Vietnam Guide to Vietnamese Labor Law for the Garment Industry, and the labor standards of the WRC's affiliate universities, as well as globally recognized standards for health and safety Best Management Practices. This audit was also designed to further investigate, via onsite inspection and measurement, the issue of excessive workplace heat and cases of workers fainting, and other health and safety issues, identified by the WRC through offsite worker interviews and addressed in a WRC report published on May 6, 2016. The WRC's report was followed by a June 2016 report by the Fair Labor Association (FLA) and by further investigation in the ensuing months by the WRC and the FLA. The worker health and safety aspects audited included elements of electrical safety, ergonomics, emergency response, fire protection, hazardous materials, industrial hygiene, job risk assessment, machine guarding, personal protective equipment, respiratory protection, training, recordkeeping, and OHS program, among others. Due to the limited time available, the audit approach to the two-day site visit included the following tasks:

- Holding an opening conference involving facility management, the WRC's investigative team, and representatives of Nike and the FLA, to describe the scope of work, and timetable.

- Conducting a walk-through inspection of selected factory buildings.

- Reviewing available documentation provided by management regarding reporting of occupational illnesses and injuries, safety inspections, accident investigations, and OHS personnel and committee activities.

- Interviewing facility representatives to obtain information on OHS management practices, written programs and procedures, and internal reporting.

- Holding a closing conference with facility management, and representatives of Nike, and FLA.

- Preparing an audit report with findings and recommendations for corrective measures. Observations on BMPs to enhance worker protection where host country regulations and industry guidelines are absent or considered to be outdated were included as appropriate.

1.2 Background Information

Founded in December 1982, Hansae Company Limited has apparel manufacturing operations in China, Guatemala, Indonesia, Nicaragua, Saipan and Vietnam. In 2015, Hansae had sales of more than $1.4 billion, an operating profit of $125 million, and sent 93% of its production to the United States. The company has operated its facility in Vietnam since 2001, and Nike has sourced from the facility for more than 10 years.

Hansae is an experienced, well-funded manufacturer with the resources to develop and implement an effective, world class OHS program directed by OHS professionals with appropriate funding, staff and full corporate support that is capable of anticipating, recognizing, evaluating and controlling the various types of workplace hazards that arise from mass production of garments. In July of 2016, the WRC reached an agreement with Nike and Hansae to conduct a limited onsite audit of Hansae's operations, involving two days on-site, in conjunction with a team from the FLA, which will issue a separate report of its own audit findings.

2.0 FINDINGS

2.1 Summary of Health and Safety Findings

There are 41 findings listed in the attached Corrective Action Plan (CAP). 16 are ranked as Priority 1 findings that require immediate attention due to their potential for injury or illness to workers. 24 findings are considered Priority 2, which relate to potential non-compliance or hazards and could result in injury, and the one remaining finding related to recordkeeping requirements is classified as Priority 3. Detailed descriptions of individual findings in each of the aspect areas, and recommended corrective actions, along with the regulatory citations, are presented in the Corrective Action Plan in the Attachment section.

The main occupational health issues identified during the site visit are excessive heat and high humidity inside the factories, and evaporative cooling fans that fail to keep the temperature within Vietnam standards; cleaning rooms where acetone is sprayed with

inadequate ventilation and respiratory protection equipment, and noise exposure from use of compressed air guns to clean clothes; and ergonomic risk factors from the generalized use of wood benches in the sewing areas with no back support, adjustments, or cushioned seats. Safety issues include exposed electrical wires in the cleaning room where flammable liquids are sprayed; locked or lockable emergency exit doors; and machine guarding deficiencies in tool grinders in the maintenance shops. Other issues of concern include the absence of job risk assessments; inadequately trained and underutilized OHS department employees; ineffective incident investigations and safety inspections - all of which point to a dysfunctional OHS program and lack of management support.

2.2 Indoor Air Quality

High temperature and relative humidity constitute a potential source of heat stress to Hansae garment workers, which can lead to or exacerbate some of the reported medical conditions, such as dizziness, headaches, and fainting episodes. The table below presents the averages of 62 temperature and relative humidity readings recorded in the Hansae factories during the two-day site visit, along with a comparison of indoor and outdoor levels at each factory, and between those factories with and without evaporative cooling systems. The table also shows the maximum allowable temperature in the workplace in Vietnam of 32^0C (89.6^0F) as per Decision 3733-2002/QĐ-BYT standard referenced in the Better Work Vietnam Guide to Vietnamese Law for the Garment Industry, 2016 edition. The complete data set is included in Attachment C.

Table 1: Temperature and Relative Humidity in Hansae Vietnam Factories

Date	Factory	Average Temp ^{o}C	Average R.H.%	Inside T^{o}C > outside	Inside R.H.% > outside	Evaporative Cooling System
13-Oct	3	31.1	69.7	No	Yes	Yes
13-Oct	5	**32.5**	64.0	Yes	Yes	No
13-Oct	11	29.6	71.2	No	Yes	Yes
13-Oct	12	**33.0**	57.5	Yes	No	No
13-Oct	outside	31.5	61.4			
14-Oct	7	**33.9**	58.4	Yes	Yes	No
14-Oct	9	31.8	61.5	No	Yes	No
14-Oct	10	**34.8**	55.7	Yes	Yes	No
14-Oct	outside	34.1	50.5			
Regulatory	Maximum	32.0	80.0			

Notes: > = greater than; Temperatures in **bold** exceed the maximum limit as per Decision 3733-2002/QĐ-BYT standard for "normal" work referenced in the Better Work Vietnam Guide to Vietnamese Law for the Garment Industry, 2016 edition.

Temperatures in six of the seven factories inspected over two days exceeded the maximum temperature allowed by Vietnamese regulations of 32^0C (89.6^0F) in at least half of the work areas measured. The average interior air temperatures exceeded the limit in four of seven factories. Average interior humidity levels were higher inside than outside in six of seven factories, including both of those with evaporative coolers. The average indoor temperatures in factories 3 and 11, both which have evaporative cooling

systems were, on average less than 1.5^{0}C lower than the outside temperature. Factory 3 was only 0.9^{0}C below the maximum limit, but 8.3% more humid. Factory 11 was 2.4^{0}C below the regulatory limit, and almost 10% more humid than outdoors. This data demonstrates that the use of evaporative coolers is not an effective means of controlling indoor temperatures to within Vietnamese standards in large measure because they are not designed to reduce humidity levels in air, which is a key component of comfort ventilation. An example of effective climate control is the system currently operating in Hansae's administrative office building.

2.3 Summary of OHS Program Evaluation

Hansae's OHS organization consists of a two-person, designated worker health and safety staff that reports to the Maintenance Manager, and a joint labor-management Health and Safety Committee that conducts and documents OHS quarterly meetings required by regulation. In addition, the Compliance Department is responsible for safety inspections, and individual factories conduct their own accident investigations with wide latitude for implementing and enforcing OHS rules. A central health clinic attends to all minor injuries and illnesses, classifies and reports injury and illness statistics, and participates in incident investigations.

The Safety Department staff has collateral duties in other areas, and do not meet the required two full-time equivalents, or have the training required by Vietnamese law for a facility of this size. They also lack the authority and opportunity to manage the OHS program on site. The facility's health clinic has misclassified employee illnesses and may not capture all injuries and illnesses occurring on site. The periodic safety inspections of the factories have not captured and corrected numerous hazards that have been reported in previous audits as well as the present audit. The investigations of incidents resulting in employee injuries and illnesses have not identified or addressed the root causes of the incidents, frequently listing "worker error" or "worker carelessness" as the sole cause of the incident. The Health and Safety Committee generates documentation but does not coordinate or conduct the essential components of effective OHS programs – the recognition, evaluation and correction of both visible safety hazards and more complex health risks.

The resulting OHS program for both the individual factories and the facility as a whole is fragmented, poorly coordinated, and largely ineffective. Overall, there is insufficient management commitment, administrative support and financial, human and technical resources devoted to the OHS program at Hansae Vietnam, at both the corporate and facility levels.

2.4 Audit Findings and Corrective Action Plan

The individual findings in each of the aspect areas with their regulatory citations are presented in the Audit Findings and Corrective Action Plan in Attachment "A". The detailed findings of the OHS Program Evaluation are included in Attachment "B".

3.0 STUDY LIMITATIONS

The present Occupational Health and Safety Audit is not intended to be an exhaustive or comprehensive investigation of the facility. The information contained in this report relates only to the referenced subject facility as it existed at the time of the investigation and should not be extrapolated or construed to apply to any other facility or operation whatsoever. The contents of this report are valid as of the date of the investigation and are applicable only for the purposes and conditions described in this report. Any change in the conditions, standards, regulations or other professional interpretations outside of our control, may invalidate a part or all of the conclusions in this report, without implying any responsibility on the part of Alliance Consulting International or the Maquiladora Health and Safety Support Network.

Respectfully submitted:

Enrique Medina, MS, CIH, CSP, FAIHA[1]

Garrett D. Brown, MPH, CIH, FAIHA[1]

Date: 10/21/2016

[1] Fellow of the American Industrial Hygiene Association

ATTACHMENT "A"

Hansae Vietnam Health and Safety Audit Corrective Action Plan

Facility: Hansae Vietnam **Audit Date: Oct 13-14, 2016**

Finding No.	Area Audited	Category	Description	Recommended Corrective Action	Priority Level	Regulatory Citation	Status
1	Canteen by Factory 6	Flammable gases	Butane gas cylinders are located in a separate room next to the kitchen accessed from the outside. The cylinders are manifolded to one pipe with a manual shut-off button to turn off gas flow in an emergency. However, a one gas line does not go through the manifold connected to the shut off button. The gas cylinder storage room is kept locked and cannot be accessed quickly in the event of a fire.	Reconfigure the butane fuel emergency shut-off devices to verify that all butane tanks connected to the manifold distribution system are turned off by a single shut off valve. Ensure unobstructed access to the storage room in the event of a fire in the canteen.	1	Labor Code, Articles 138 and 147; Circular 30/2012/TT-BYT; Circular 15/2012/TT-BYT; Joint Circular 13/2014; Circular 19/2011/TT-BYT	Open
2	Canteen by Factory 6	Food safety	Fluorescent light tubes on the kitchen ceiling are not protected to keep them from dropping glass shards and possibly mercury if they break over food preparation areas.	Install slip covers or other shielding on fluorescent lamps in food preparation areas.	2	Labor Code, Articles 138 and 147; Circular 30/2012/TT-BYT; Circular 15/2012/TT-BYT; Joint Circular 13/2014;	Open
3	Canteen by Factory 6	Food safety	The floor in the food preparation area is very slippery and there are no anti-slip mats next to the stove where workers handle pots with hot oil or boiling water.	Install anti-slip mats in front of the stove, and where there is a risk of slipping and injury from hot liquids.	2	Labor Code, Articles 138 and 147; Circular 30/2012/TT-BYT; Circular 15/2012/TT-BYT; Joint Circular 13/2014;	Open
4	Cleaning Room. Factories 3,5,7,9,10,11, 12	Respiratory Protection	Single use filtering face piece masks with charcoal layer are used with acetone spray guns to clean stains. The masks are not NIOSH approved. The facepieces are not stored in bags, where they continue to absorb organic solvents while not in use and become saturated. There is no set mask replacement schedule.	Provide adequate respiratory protection based on industrial hygiene air monitoring. Train cleaning room employees on the proper use, care, and limitations of respirators, and implement a change out schedule for respirators to prevent vapor breakthrough.	1	Labor Code, Articles 138, 149 and 150; Circular 27/2013/TT-BLDTBXH; Circular 04/2014/TT-BLDTBXH	Open
5	Cleaning Room. Factories 3,5,7,9,10,11, 12	Compressed Gases	Compressed air guns used for cleaning spots operate at between 4-6 kg/cm^2 pressure (56-85 psi). The nozzles do not have pressure reducers or relief devices to lower outlet pressure to 30 psi or less to prevent injury to workers.	Install an inline air pressure reducer in the room main air line or provide pressure reducer tips to each nozzle to keep air gun outlet pressure to 30 psi or less.	2	Labor Code, Articles 138 and 147	Open
6	Cleaning Room. Factories 3,5,7,9,10,11, 12	Hearing Protection	The sound level at the ear of the cleaning operator using a compressed air gun in one factory was 96 dBA, above the 90 dBA maximum noise limit, which represents four times the maximum loudness. The noise reduction rating of the ear plugs worn by the operator were not available.	Install a pressure reducer nozzles on the air guns to no more than 30 psi to help reduce the noise level, and evaluate the ear plugs to ensure they provide the required noise reduction to keep noise levels below 85 dBA daily average exposure.	2	Labor Code, Articles 138 and 147; Decision 3733/2002/QD-BYT' Standard TCVN 3985-1999	Open
7	Cleaning Room. Factories 3,5,7,9,10,11, 12	Respiratory Protection	No personal or area air monitoring for acetone has been conducted of cleaning room operators.	Conduct personal air monitoring to establish acetone concentrations and provide adequate respiratory protection, as needed.	2	Labor Code, Articles 30 and 138; Decree 26/2011/ND-CP; Standard TCVN 5507:2002	Open
8	Cleaning Room. Factories 3,5,7,9,10,11, 12	Ventilation	The cleaning rooms where acetone is sprayed in the open do not have local exhaust ventilation (LEV) systems to capture the vapors. Wall-mounted fans installed to exhaust air from the room do not provide adequate ventilation.	Install spray booths with LEV to capture acetone emissions from spray guns, and conduct acetone spraying inside enclosure hoods to prevent build-up of potentially toxic and flammable atmospheres in the room.	2	Labor Code, Articles 138 and 147; Decree 26/2011/ND-CP; Standard TCVN 5507:2002	Open

Hansae Vietnam Health and Safety Audit Corrective Action Plan

Facility: Hansae Vietnam **Audit Date: Oct 13-14, 2016**

Finding No.	Area Audited	Category	Description	Recommended Corrective Action	Priority Level	Regulatory Citation	Status
9	Cleaning Room. Factories 3,5,7,9,10,11, 12	Electrical	Electrical outlets for plugging in emergency eye wash station pumps are not rated as ground fault circuit interrupt (GFCI) to prevent electric shock to workers.	Install GFCI outlets within 6 feet of where water is present, and where portable tools are used, such as pattern cutting saws. This finding was corrected after the audit subject to verification of photographic documentation provided.	1	Labor Code, Articles 138 and 147; Standard TCVN 11-48 /1996; Decree 35/2003/ND-CP; Decree 105/2005/ND-CP	Open
10	Cleaning Room. Factories 3,5,7,9,10,11, 12	Electrical	Emergency eye wash stations electric water pump motors are placed directly below the eye wash. The electric motor is not connected to a GFCI outlet. There is no floor drain to capture water stream presenting an electric shock hazard to users from energized equipment.	Relocate electric pump away from the eyewash station to keep water from contacting energized equipment, and install pipe to floor drain or bucket to capture water stream to keep area dry. Plug electric motor to GFCI outlet.	1	Labor Code, Articles 138 and 147; Standard TCVN 11-48 /1996; Decree 35/2003/ND-CP; Decree 105/2005/ND-CP	Open
11	Cleaning Room. Factories 3,5,7,9,10,11, 12	Flammable liquids	Open spraying of a Class 1B flammable liquid acetone with no local exhaust ventilation occurring immediately below non-explosion-proof lighting represents a possible explosion and fire hazard.	Install spray booths with LEV to prevent open air spraying that creates airborne mist of flammable liquid, and install appropriate explosion proof lighting and electrical wiring in the rooms.	1	Labor Code, Articles 138 and 147; Decree 26/2011/ND-CP; Standard TCVN 5507:2002	Open
12	Cleaning Room. Factories 3,5,7,9,10,11, 12	Personal Protection Equipment	Cleaning room employees transfer acetone from the 30 liter (7.9 gallon) containers to the spray gun containers using a manual pump. The employees wear eye protection, and chemical protective gloves, but their feet are unprotected in open toed sandals.	Provide protective footwear, such as closed-toed shoes, rubber boots, or chemical resistant rubber overshoes during liquid transfer operations. Correct fitting footwear must be individually assigned to each employee that requires it. Overshoes of various sizes may also be made available for common use.	1	Labor Code, Articles 138 , 147 and 149; Decree 26/2011/ND-CP; Standard TCVN 5507:2002; Circular 04/2014/TT-BLDTBXH	Open
13	Cleaning Room. Factories 3,5,7,9,10,11, 12	Flammable liquids	30-liter (7.9 gallon) containers of acetone are stored in the open inside plastic totes, not in flammable cabinets. Inventories observed ranged from one to three containers per room.	Store flammable liquids inside approved or listed metal flammable containers with adequate secondary containment capacity, tight sealing doors, and properly grounded.	1	Labor Code, Articles 138 and 147; Standard CVN 5507:2002; Decree 68/2005/ND-CP	Open
14	Cleaning Room. Factories 7,9,10,11, 12	Electrical	Exposed wires are evident in plugged electrical equipment, such as emergency eye wash water pumps in FA 7,9,11, and 12, and Fulontoon spot removing local exhaust ventilation system in factory 10.	Repair all deficiencies in electrical installations to ensure they comply with the electrical code and best practices. Portions of this finding were corrected after the audit subject verification of photographic documentation provided.	1	Labor Code, Articles 138 and 147; Standard TCVN 11-48 /1996; Decree 35/2003/ND-CP; Decree 105/2005/ND-CP	Open
15	Cleaning Room. Factory 10	Ventilation	The "Fulontoon" spot removing Local Exhaust Ventilation (LEV) machines were turned off, and several did not work when turned on.	Employees in the cleaning rooms cannot be exposed to hazardous levels of airborne chemicals above regulatory limits. If ventilation is required to maintain levels below regulatory limits, then the local exhaust ventilation (LEV) systems must be functional and effective. LEV systems that are non-functional or ineffective must be removed from the cleaning rooms.	2	Labor Code, Articles 138 and 147; Decree 26/2011/ND-CP; Standard TCVN 5507:2002	Open
16	Cleaning Room. Factory 11	Slips and falls	A wet cloth mat placed underneath the emergency eyewash presents an immediate slipping hazard on tile floor. None of the cleaning rooms inspected have drains at the eyewash stations.	Install a pipe to floor drain or bucket to capture water stream for all eyewash stations to keep areas dry, and place anti-slip mats on the floor to prevent slips and falls during an emergency.	1	Labor Code, Articles 138 and 147	Open

Facility: Hansae Vietnam **Audit Date: Oct 13-14, 2016**

Finding No.	Area Audited	Category	Description	Recommended Corrective Action	Priority Level	Regulatory Citation	Status
17	Cleaning Room. Factory 12	Emergency Eyewash	Access to the emergency eye wash station is blocked in the cleaning room.	Maintain clear access to all emergency eyewash stations.	1	Labor Code, Articles 138 and 147; Decree 26/2011/ND-CP; Standard TCVN 5507:2002	Open
18	Cleaning Room. Factory 7	Emergency Eyewash	The emergency eye wash paddle lever in the cleaning room has been replaced with a valve handle that is difficult to find and open in an emergency.	Replace eyewash handles with paddles for easy activation.	1	Labor Code, Articles 138 and 147; Decree 26/2011/ND-CP; Standard TCVN 5507:2002	Open
19	Emergency Exit. Factory 11	Electrical	The emergency exit sign and light are plugged in to wall outlets instead of being hardwired. The emergency light cord has been patched.	Permanent equipment such as emergency lighting and exit signs must be hard wired to the electrical system. Patched electrical cables must be removed and replaced.	1	Labor Code, Articles 138 and 147; Standard TCVN 2622-1995; Standard TCVN 439/BXD-CSXD	Open
20	Facility. Factories 3,5,7,9,10, 11, 12	Ventilation	Temperatures in six of the seven factories inspected exceeded the maximum allowed 32ºC (89.6ºF) in at least half of the work areas measured. Average interior air temperatures exceeded the limit in four of seven factories. Average interior humidity levels were higher than outside in six of seven factories, including both of those with evaporative coolers. High temperatures and humidity in all work areas constitute a potential source of heat stress. Evaporative coolers are not an effective means of controlling indoor temperatures to within Vietnamese standards.	Make the necessary engineering controls to comply with Vietnamese temperature regulations, and modify work practices to prevent heat stress and ensure worker comfort.	2	Labor Code, Articles 138 and 147; Standard TVN 5508-1991; Decision 3733/2002/QD-BYT	Open
21	Facility. Factories 3,5,7,9,10,11, 12	Emergency Exits	The emergency exit doors in all of the buildings inspected had panic bar devices and also locking bolts that were bolted from the inside, or hasps with eyelets to fit a padlock.	Remove all bolts that can obstruct immediate exit in the event of a fire. This finding was corrected in some of the buildings inspected.	1	Labor Code, Articles 138 and 147; Standard TCVN 2622-1995; Standard TCV 439/XD-CSXD	Open
22	Facility. Factories 3,5,7,9,10,11, 12	Respiratory Protection	The disposable filtering facepiece respirators (dust masks) provided for mandatory use by all factory workers do not fit many employees properly to make a good seal with the face, and are not replaced frequently enough to be effective even when they fit. The facility has not conducted independent air monitoring to establish the need for these masks, which are uncomfortable to wear all day, and lose their shape and integrity when they get moist from perspiration or become deformed from repeated storage.	Conduct representative personal air monitoring for each type of worker and job duties to establish fabric dust concentrations and verify the need for respiratory protection. Implement dust reduction measures, and provide proper fitting filtering facepiece respirators only if required based on results. Disposable facepiece respirators should be replaced daily or more frequently if needed.	2	Labor Code, Articles 137, 138, 147 and 149; Circular 04/2014/TT-BLDTBXH	Open
23	Fire Pump Room	Hazardous materials	The diesel tank for the back up generator located in the fire pump house does not have a hazard label, or container capacity. The tank has no secondary containment or diking to capture spills.	Apply the required placarding and install secondary containment. This finding was corrected after the audit subject verification of photographic documentation provided.	2	Labor Code, Articles 138 and 147; Standard TCV 5507:2002; Decree 68/2005/ND-CP	Open
24	Fire Pump Room	Electrical	Exposed wires are evident in the backup electric fire pump.	Repair all deficiencies in electrical installations to ensure they comply with the electrical code and best practices.	1	Labor Code, Articles 138 and 147; Standard TCVN 11-48 /1996; Decree 35/2003/ND-CP; Decree 105/2005/ND-CP	Open

Hansae Vietnam Health and Safety Audit Corrective Action Plan

Facility: Hansae Vietnam **Audit Date: Oct 13-14, 2016**

Finding No.	Area Audited	Category	Description	Recommended Corrective Action	Priority Level	Regulatory Citation	Status
25	Inspection, Ironing, Packing. Factories 3,5,7,9,10,11, 12	Ergonomics	The inspection, ironing and packaging operations represent ergonomic risk factors from prolonged standing, even with rubber slippers or anti-fatigue mats.	Conduct a job risk assessment of ergonomic risk factors for all operations with prolonged standing and modify the work process to reduce the risk of musculo-skeletal injury.	2	Labor Code, Articles 137, 138 and 147;	Open
26	Maintenance shop. Factories 3,5,7,11, 12	Machine guarding	Grinding wheels in some maintenance shops did not have shield protectors, tongue guards, or tool rests, and in those that did the tool rest was more than 1/8" from the wheel. The grinder tables were not bolted to the floor.	Install appropriate guards to cover all hazard points from moving parts and secure them to the floor. Portions of this finding were corrected after the audit subject to verification of photographic documentation provided.	1	Labor Code, Articles 138 and 147; Circular 05/2014/TT-BLDTBXH; Circular 06/2014/TT-BLDTBXH	Open
27	Maintenance shop. Factories 9,12	Drill presses	Unbolted drill presses were not secured to the floor, and can tip over onto workers.	To prevent tipping over, the drill press in FA 9 used as mobile tool can be bolted to a sturdy wood platform that can be moved, and the FA 12 drill press must be bolted to the table in its permanent location.	2	Labor Code, Articles 138 and 147; Circular 05/2014/TT-BLDTBXH; Circular 06/2014/TT-BLDTBXH	Open
28	OHS Program	Accident Investigation	10 accident investigations between November 2015 and August 2016 where workers were transferred to the hospital for medical treatment beyond first-aid, including electrical shock resulting in a fall and head trauma, crushed fingers, fractured hands, needle punctures, and cut hands requiring stitches all concluded that the cause of all the incidents was “worker error” or “worker carelessness.” No investigation was conducted of the equipment or work procedures involved in the incident. The only corrective actions listed were “worker retraining” and “frequent reminders” to work safely. All accident investigations are conducted at the factory level by mostly managers and supervisors.	The incident investigation process and make-up of the investigation team needs to be reorganized to focus on identifying the actual underlying causes of injuries and illnesses and preventing them in the future. Incident investigations must be conducted in an objective an independent manner by shifting authority and responsibility away from the factory management and relying more on the OHS department. The investigation team must receive training in incident investigation, root cause analysis, and incident reporting and recordkeeping.	2	Labor Code, Articles 137, 138, 142, 147 and 151; Joint Circular 01/2011/TTLT-BLDTBXH-BYT	Open
29	OHS Program	Occupational Injury and Illness records	Monthly Sickness reports prepared by the health clinic staff do not use uniform classifications to allow month to month comparisons. Some conditions, such as fainting incidents are classified as digestive distress or hypoglycemia, which does not allow an accurate representation of occupational health and safety risks.	Develop a consistent reporting system to improve tracking of occupational illness and injuries. Ensure all illness and injuries are captured by the factory’s surveillance system and investigated as to their root cause so that action can be taken to prevent their reoccurrence.	3	Labor Code, Articles 137, 138 , 143, 147 and 151; Joint Circular 01/2011/TTLT-BLDTBXH-BYT	Open

Hansae Vietnam Health and Safety Audit Corrective Action Plan

Facility: Hansae Vietnam **Audit Date: Oct 13-14, 2016**

Finding No.	Area Audited	Category	Description	Recommended Corrective Action	Priority Level	Regulatory Citation	Status
30	OHS Program	OHS Department	The two assigned OHS staff do not work full-time in safety as required by regulation. One is 50% OHS, and 50% maintenance, and the other is 25% environmental and 75% safety. OSH staff do not participate in accident investigations or regular factory safety inspections, in the preparation of reports to the government Department of Labor, which includes the company's risk assessments, or receive monthly illness and injury report, and are not members of the OHS Committee, although they attend the quarterly Labor-Management safety Committee meetings.	Assign OHS staff to full-time duty or hire additional personnel dedicated to full time OHS duties, as required by Vietnamese regulations. Reorganize duties to incorporate OHS staff in all safety related activities and groups, including accident investigations, risk assessments, safety inspections, OSH Committee, and review of illness and injury reports.	2	Labor Code Articles 137, 138, and 139; Joint Circular 01/2011/TTLT-BLDTBXH-BYT	Open
31	OHS Program	Risk Assessments	Comprehensive risk assessments of health hazards have not been conducted at the facility. Hansae relies exclusively on very limited snapshot annual inspection by government auditors of temperature, humidity, noise, lighting, and airborne chemical and dust levels.	Conduct independent job risk assessments for all the job functions at the facility, including representative air monitoring using recognized industrial hygiene methods to determine full shift exposures to airborne contaminants such as dust, acetone, heat, and noise, as well as evaluation of ergonomic and repetitive motion hazards and associated human factors, and management of facility-wide programs like respiratory protection.	2	Labor Code, Articles 137, 138,139 and 148; Joint Circular 01/2011/TTLT-BLDTBXH-BYT	Open
32	OHS Program	Safety Inspections	The factory safety inspections conducted by factory personnel and the Compliance Department have not captured a wide range of safety hazards to workers at the facility. Only worker PPE violations are noted, while unsafe conditions of equipment, installations and machinery, such as those identified in this assessment are not recognized or are ignored.	The safety inspection procedures and make-up of the inspection team needs to be reorganized, and the inspectors must receive proper training in inspection procedures, and risk assessment to identify and correct deficiencies, as well as documenting and reporting repeat violations.	2	Labor Code, Articles 137, 138 and 147; Joint Circular 01/2011/TTLT-BLDTBXH-BYT	Open
33	OHS Program	Training	Each of the two assigned OHS staff have received less than 14 hours of function-specific training from Hansae, Hansae's client brands, or government agencies all together since establishing the Safety Department three years ago. Current Safety Department employees did not receive any OHS training until their second year in the department, and the total hours are well below what is required by Vietnamese law.	Provide training required by Vietnamese law for "Group 2" employees (full- and part-time OHS officers and managers) of 48 hours OHS training at initial job assignment and 8 hours of refresher training every two years.	2	Labor Code, Articles 137, 138, 139 and 150; Circular 27/2013/TT-BLDTBXH	Open
34	Restrooms. Factories 5, 12	Toilets	One of the men's toilets in factory 12 was out of operation and covered with wet rags. The toilet paper holders in two of the women's stalls in factory 5 were empty.	All toilet facilities must be working and supplied with toilet paper at all times in accordance to Vietnamese regulations.	2	Labor Code, Article 138; Decision 3733/2002/QD-BYT	Open

Hansae Vietnam Health and Safety Audit Corrective Action Plan

Facility: Hansae Vietnam **Audit Date: Oct 13-14, 2016**

Finding No.	Area Audited	Category	Description	Recommended Corrective Action	Priority Level	Regulatory Citation	Status
35	Restrooms. Factories 9, 12	Hand washing facilities	There is an insufficient number hand washing taps below the required 30 workers/tap: FA 9 has 164 men, and only 3 functioning taps, or 55 men per tap. FA 12 has 200 men, and 4 faucets or 50 men per tap.	Install sufficient numbers of working handwashing taps in all restrooms according to Vietnamese regulations.		Labor Code, Article 138; Decision 3733/2002/QD-BYT	Open
36	Sewing. Factories 3,5,7,9,10,11, 12	Ergonomics	Wood benches assigned to sewing operators are not ergonomically appropriate to the task. The benches lack back support, seat padding, arm rests, casters, swivel, seat pan height and back adjustment, and lumbar support. Operators "fix" the chairs by placing cushions on the seat.	Provide ergonomically adjustable chairs for operators required to sit for most of the work shift.	2	Labor Code, Articles 137 138 and 148; Joint Circular 01/2011/TTLT-BLDTBXH-BYT	Open
37	Sewing. Factory 5	Machine guarding	The Plexiglas barrier guard on the belt drive of a snap machine was missing a section, leaving exposed hazard points.	Install appropriate guards to cover all hazard points from moving parts. This finding was corrected after the audit subject to verification of photographic documentation provided.	1	Labor Code, Articles 138 and 147; Circular 05/2014/TT-BLDTBXH; Circular 062014/TT-BLDTBXH	Open
38	Shipping Warehouse. Factories 3,5,7,9,10,11, 12	PPE	Workers in the shipping area use pallet jacks to move plastic pallets load with incoming materials and outgoing product. Shipping dock workers also used rolling conveyors to load boxes into trucks. The workers are wearing only open-toed sandals. Jacks, pallets and materials that can fall from the conveyor represent a crush hazard on unprotected feet. Reportedly, loading operations and jacks are used intermittently, at most 2 hours a day.	Provide protective footwear, such as steel-toed shoes, or removable toe guards that can be slipped on and off and used just for the period of time the jacks are used and loading operations take place when feet are exposed to potential crush hazard. Correct fitting footwear must be individually assigned to each employee that requires it, or toe guards of various sizes that can be for common use may be made available.	2	Labor Code, Articles 138 , 147 and 149; Decree 26/2011/ND-CP; Standard TCVN 5507:2002; Circular 04/2014/TT-BLDTBXH	Open
39	Statistics area in Factory 9, and QC area in Factory 11	Slips and falls	Raised platforms present a tripping and falling hazard when employees step onto or step off of the raised platform.	Place warning tape or other effective method on the leading edge of the platform and also on the floor right where the people get on and off to warn employees of the break in elevation and trip/fall hazard.	2	Labor Code, Articles 138 and 147	Open
40	Warehouse. Factories 3,5,7,9,10,11, 12	Storage Racks	Storage racks are not bolted to the floor.	Bolt storage racks.	2	Labor Code, Article 138 ad 147; Circular 05/2014/TT-BLDTBXH; Circular 062014/TT-BLDTBXH	Open
41	Warehouse. Factories 3,5,7,9,10,11, 12	Material Handling	Employees who walk up and down the platform ladder to store and retrieve oversize and heavy boxes over 25 kg with limited visibility face a risk of falls and serious injury.	Provide mechanical lifting devices to access high level racks with heavy or oversize boxes.	2	Labor Code, Articles 138 and 147	Open

ATTACHMENT "B"

Evaluation of the OHS Program at Hansae Vietnam

Founded in December 1982, Hansae Co. Ltd., has apparel manufacturing operations in China, Guatemala, Indonesia, Nicaragua, Saipan and Vietnam. In 2015, Hansae had sales of more than $1.4 billion, an operating profit of $125 million, and sent 93% of its production to the United States. The company has operated its facility in Vietnam since 2001, and Nike has sourced from the facility for more than 10 years.

Hansae is an experienced, well-funded manufacturer with the resources to develop and implement an effective, world class occupational health and safety (OHS) program directed by OHS professionals with appropriate funding, staff and full corporate support that is capable of anticipating, recognizing, evaluating and controlling the various types of workplace hazards that arise from mass production of garments.

Because the October site-visit was limited to two days, it was not possible to review every relevant document, but interviews of key staff and a review of critical documents provided the basis for evaluating the scope, activities and impact of the OHS program for a factory of 10,000 workers, 12 manufacturing buildings, five dining halls, a large administrative and related buildings.

Designated OHS Staff

Hansae has a plant-wide Health and Safety Department consisting of two designated staff members, and 23 part-time staff at the 12 separate factories that make up the facility. Since the factory-level part-timers are managers with major production responsibilities, the only safety staff are the two persons assigned at the facility-level.

However, interviews with the two safety staff indicated that even these staff members do not spend all of their time on worker safety as required by Vietnamese regulations for facilities of this size. One of the safety staff spends 50% of his time on strictly maintenance issues (water and electrical systems); while the second staff person spends at least 25% of his time on environment issues (hazardous waste storage and disposal).

The staff member with environmental responsibilities (3 years at Hansae) has a university degree in environmental management, with two semesters of health and safety course work; while the maintenance-related staff member (13 years with Hansae) has no formal education in OHS and spent the first decade of his Hansae employment in the maintenance department. Both safety staff members were assigned to the Safety Department three years ago. Both report to the Korean manager of plant maintenance for the entire facility.

Both safety staff members have each received less than 14 hours each of OHS training from Hansae, Hansae's client brands, or government agencies since establishing the Safety Department three years ago. According to Vietnamese law, "Group 2" employees (full- and part-time OHS officers and managers) are required to receive 48 hours OHS training at initial job assignment and 8 hours of refresher training every two years. Hansae's current Safety

Department employees did not receive any OHS training until their second year in the department, and the total hours are well-below what is required by Vietnamese law.

The two designated members of the Safety Department do not participate in the key activities of the facility's OHS program. They do not participate in the periodic safety walk-around inspections of the 12 manufacturing plants (these are done by untrained factory and facility-wide Compliance Department personnel). They do not conduct investigations of accidents or incidents that produce injuries and employee reports of illness (also done by factory personnel). They do not conduct any measurements of airborne contaminants, such as chemical solvents used in the cleaning/spot-removing rooms. They do not directly interact with the five-members of the facility health clinic. They do not directly interact with the facility-wide Compliance Department which receives and investigates employee complaints. They are not members of and do not participate in meetings of the facility's 27-member Health and Safety Committee. They do not participate in the development and writing of the twice-yearly report on labor protection to the government Department of Labor (submitted in January and July of every year), which includes the company's assessment of risks on-site.

The safety-related activities that the two Safety Department staff members actually perform consist of conducting pro-active inspections of machinery and equipment for the first staffer, and checking that workers are using personal protection equipment (PPE) and evaluating factory levels of heat and noise for the second staffer. Both also meet quarterly with members of the 122-member "OHS Collaborators Network" to receive employee complaints and suggestions, such as the request of boiler operators to have a bench seat at their workstation.

Surveillance of Worker Injuries and Illnesses

Hansae's facility includes a health clinic staffed by one physician and four nurses. The 10-bed facility provides only diagnosis and first-aid level treatment, and workers needing treatment beyond first-aid are transported by company vehicle to a nearby hospital. The clinic manager reported that no ambulance has entered the Hansae compound and all transport to the facility is by company vehicle.

Clinic records indicated that during calendar year 2015, there were 15,116 visits by workers to the clinic, or approximately 1,200 visits a month. For the period of July-August-September 2016, there were 3,204 worker visits to the clinic, of which 25 cases were transferred to the hospital for treatment beyond first-aid.

One key component of an effective OHS program is ongoing surveillance of worker injuries and illnesses to identify and then investigate the cause of these injuries and illnesses. At Hansae it appears there are issues of misclassification of illnesses, which would impede the identification of the cause, and the possibility of significant undercounting of illnesses.

In July 2016, the clinic received two workers who had fainted at their worker stations in factories 5 and 11. The observation that they had fainted was recorded in the hand-written clinic log book of worker visits for each factory, where they are marked with a letter "X" next to the diagnosis, and on a separate page of the monthly report. However, when these two incidents were entered

into the summary charts for the month, neither was listed as "fainting," but rather one was listed as "hypoglycemia" and the other as "digestive disorder." In fact, none of the summary charts from January 2015 to September 2016 listed any cases of "fainting."

Moreover, the WRC received credible reports from off-site worker interviews that at least two workers fainted at their work stations in factory 5 this year and were then taken to the facility clinic for treatment, including one worker in March and another worker in July. However, a page-by-page review of the 2015 and 2016-to-date clinic log books for factory 5 conducted on October 14, 2016 showed only one entry for a fainting incident – the July 18th fainting, which was listed as hypoglycemia on the summary charts. The March fainting incident does not appear on the factory 5 log book. A similar review of the 2015 and 2016 log books for factory 12 did not list any fainting incidents in over 21 months.

The scale of the illness misclassification is unknown without cross-checking the log book entries to the summary charts for each factory. However, there appears to be a substantial discrepancy between the health clinic reports, and independent reports from worker interviews. This means that the total number and causes of fainting cases is also unknown. Illnesses that are not captured by the factory's surveillance system will not be investigated as to their cause nor action taken to prevent reoccurrence of the illness.

Investigation of Incidents Causing Worker Injuries and Illnesses

Another key element of effective OHS programs at a factory-level is a thorough investigation of incidents resulting in worker injury or illness to identify the underlying cause of the incident and the means necessary to prevent future incidents and injuries.

A random survey of ten cases between November 2015 and August 2016 where workers were received at the clinic and then transferred to the hospital for medical treatment beyond first-aid were reviewed during this audit. The workers' injuries included electrical shock resulting in a fall and head trauma, crushed fingers, fractured hands, needle punctures, and cut hands requiring stitches

In every case, Hansae's incident investigation committee concluded that the cause of the 10 incidents was "worker error" or "worker carelessness." No investigation was conducted of the equipment or work procedures involved in the incident. The only corrective actions listed were "worker retraining" and "frequent reminders" to work safely.

The incident investigations are conducted at the factory level – there are 12 separate factories in the facility – and the investigation committees consist overwhelmingly of factory managers. Some investigation committees consist of eight persons, only one of whom is not a manager, and the other members typically include the factory's General Manager and Vice Manager, Manager of Human Resources, and an Executive Board member of the factory trade union who is also a vice manager of the factory. Other investigation committees include five members, only one of which is an hourly employee, and the other members typically include the General or Vice Manager of the factory and a union board representative who is also a manager of the facility.

Having incident investigation committees consisting of a majority of managers who have direct responsibility for the factory where the incident occurred creates a conflict of interest that keeps them from identifying the actual underlying causes of injuries and illnesses in an objective and unbiased manner, and making the necessary changes to prevent the same incidents from occurring in the future.

Factory Inspections and Risk Assessment

Like the incident investigations, periodic safety inspections of each factory are conducted by personnel of each specific factory. Effective safety inspections are critical to identifying and correcting hazards to workers and assessing the risks to employees that can be addressed to prevent injuries and illnesses.

Given the limited time available for this audit, the safety inspection process was reviewed in the context of the summary chart of factory inspections contained in the minutes of the quarterly Health and Safety Committee meetings in September and December 2015 and April and July 2016.

Of the 70 inspection categories summarized in the reports, the only two areas where deficiencies were noted in each of the four summaries were in employee use of personal protective equipment (gloves and dust masks). No other deficiencies were reported apart from those attributed to worker non-compliance. Given the findings of the last Better Work audit in September 2015, the FLA audit in July 2016, and the current audit – the factory safety inspections conducted by Hansae have not captured a wide range of safety hazards to workers at the facility.

Moreover, effective OHS programs at the facility level must include comprehensive risk assessments of health hazards in addition to identifying visible safety hazards. These assessments should include air monitoring to determine full shift exposures to airborne contaminants, heat and noise; evaluation of ergonomic/repetitive motion hazards and associated human factors; and management of complex programs like respiratory protection.

This critical risk assessment activity appears to be virtually absent at Hansae. The annual inspection by government auditors includes only direct-reading measurements (a single snap-shot in time rather than measurement of full-shift exposures) of temperature, humidity, noise, lighting, and airborne chemical and dust levels.

Without specific health risk assessments, Hansae is unable to determine other health risks on site, including the following:

- What is the actual full-shift exposure to workers in the cleaning rooms to acetone? What controls are needed to eliminate or reduce these exposures, such as spray booths with dedicated local exhaust? What types of personal protective equipment are necessary to protect workers against the actual, measured hazards in the cleaning room?
- What are ergonomic hazards experienced by sitting sewing operators or standing ironing workers? What type of adjustable chairs – as opposed to the standard backless bench now in use throughout the facility – are needed to support sewing operators of different

heights and body sizes? What anti-fatigue mats or stools are needed to support standing ironing workers?

- What ergonomic and safety hazards are experienced by workers manually handling materials without mechanical assistance such as forklifts, in the materials storage and shipping departments? What controls and training are needed to avoid injuries?
- What respirators – as opposed to dust masks – are required by the actual, measured exposures to airborne chemicals and dusts to prevent unhealthy exposures to workers? If respirators are required, how can an effective respirator program involving fit-testing workers to achieve air-tight seals on workers' faces, conducting effective worker training, and for cleaning and storing respirators, be established and maintained over time?

Worker Training

The effectiveness of worker safety training at Hansae could not be evaluated in the time available for this audit. Worker training is a critical element of effective OHS programs along with surveillance of injuries and illness, safety inspections and risk assessments, and adequate staffing and leadership support for the safety department and committees.

In general, training programs are evaluated for whether they cover all hazards and risks on site; whether workers have the time to participate; whether the training methods of understandable and effective with the specific workforce; and whether workers are able to retain and use the safety information.

Anecdotally, the selection of the filtering facepiece respirator worn by the cleaning room employees, which is not adequate for this task, was reportedly made by one of the two OHS staff members who does not have training in industrial hygiene, and a factory-level "expert" with unknown qualifications. This example points to the need for additional training and corporate support to the facility's OHS function.

Facility-wide Health and Safety Committee

Hansae has a 27-member Health and Safety Committee which meets quarterly and includes 10 hourly or production workers and 17 managers. A group interview was conducted with five of the 10 worker members of the committee, and the last four quarterly committee meeting minutes were reviewed.

The committee produces minutes; reviews injury and illness reports; reviews incident investigations; reviews the annual government audit, and generates the twice-a-year report on labor protection for the government Department of Labor.

The fact that this audit confirmed previously documented ongoing and repeated safety hazards and health risks at Hansae reported by the FLA and Better Work assessments indicates that the OHS program at Hansae favors generation of documents over effective assessment and control of hazards.

Interestingly, four of the five interviewed worker members of the Health and Safety Committee work in the maintenance department of their factories as do the two designated safety officers. It appears that Hansae management views worker health and safety as largely a maintenance department function, rather than a stand-alone department with adequate staffing and resources.

Conclusion

Hansae has a two-person, designated worker health and safety staff, and a joint labor-management Health and Safety Committee that conducts and documents quarterly meetings required by Vietnam regulations. However, the OHS program for both the individual factories and the facility as a whole is ineffective in several respects.

The Safety Department staff do not have the training required by Vietnamese law or the authority and opportunity to direct the OHS program on site. The facility's health clinic has misclassified employee illnesses and may not capture all injuries and illnesses occurring on site. The periodic safety inspections of the factories have not captured and corrected numerous hazards that have been reported in previous audits as well as the present audit. The investigations of incidents resulting in employee injuries and illnesses have not identified and addressed the root causes of the incidents, frequently listing "worker error" or "worker carelessness" as the sole cause of the incident. The Health and Safety Committee generates documentation but does not coordinate or conduct the essential components of effective OHS programs – the recognition, evaluation and correction of both visible safety hazards and more complex health risks.

The result is an OHS program for both the individual factories and the facility that is fragmented, poorly coordinated, and largely ineffective. Overall, there is insufficient management commitment, administrative support and financial, human and technical resources devoted to the OHS program at Hansae Vietnam, at both the corporate and facility levels.

Recommendations

1) Hansae Co., Ltd. needs to establish an effective corporate-wide program run by OHS professionals for worker health and safety in Vietnam as well as other locations with clearly stated and tangible top management support;
2) Hansae Vietnam needs to establish an effective OHS program at the facility – managed by OHS professionals on-site and supported by Hansae Headquarters, and reporting directly to facility senior management with a sufficient number of personnel who have received, at a minimum, the OHS training required by Vietnamese law;
3) The health clinic needs to revise its procedures to accurately capture and report worker injuries and illnesses occurring on site, and assist the Health and Safety Department and Committee in determining the causes and possible prevention measures of these injuries and illnesses;
4) The procedures for investigation of incidents need to be revised to have investigations led by trained health and safety staff and include more production level members and fewer managers to eliminate potential conflicts of interest;

5) The factory safety inspections need to be led by trained health and safety staff and include more production level members and fewer managers with potential conflicts of interest;
6) The Health and Safety Department staff must undertake assessments for both health and safety risks, and implement programs and controls as needed to reduce or eliminate health and safety hazards to workers in all factories and job classifications
7) The Health and Safety Department staff must work with the Human Resources Manager to conduct periodic reviews of the worker training programs on site to ensure that all required and needed topics are covered on a timely basis, and in a manner that is accessible, understandable and usable by workers exposed to health and safety hazards on site;
8) The Health and Safety Department staff needs to be part of the Health and Safety Committee and become the critical intersection of the various aspects of the OHS program and where the program is coordinated, periodically evaluated and revised as needed.

ATTACHMENT "C"

Temperature and Relative Humidity Readings at Hansae Vietnam Factories

Date	Factory	Area	Temp °C	RH%
10/13/2016	3	packing	33.4	59.7
10/13/2016	3	ironing	32.1	68.4
10/13/2016	3	sewing	30.0	75.5
10/13/2016	3	sewing	32.6	62
10/13/2016	3	sewing	30.3	
10/13/2016	3	cutting	28.9	80
10/13/2016	3	warehouse	30.6	72.7
Average	**3**		**31.1**	**69.7**
10/13/2016	5	warehouse	32.2	65.4
10/13/2016	5	warehouse	31.7	64.7
10/13/2016	5	warehouse	32.4	63
10/13/2016	5	toilet	31.8	65.3
10/13/2016	5	sewing	33.0	62.7
10/13/2016	5	inspection	33.1	63.2
10/13/2016	5	inspection	32.4	65.5
10/13/2016	5	packing	32.9	63.3
10/13/2016	5	cleaning	33.1	62.7
Average	**5**		**32.5**	**64.0**
10/13/2016	11	packing	29.2	72.7
10/13/2016	11	sewing	28.9	72.9
10/13/2016	11	sewing	28.9	74.5
10/13/2016	11	cutting	29.0	73.7
10/13/2016	11	warehouse	30.1	67.2
10/13/2016	11	sewing	30.1	71.3
10/13/2016	11	inspection	30.0	69.9
10/13/2016	11	sewing	29.6	70.6
10/13/2016	11	office area	30.4	68.2
10/13/2016	11	sewing	30.0	
Average	**11**		**29.6**	**71.2**
10/13/2016	12	packing	33.4	56.9
10/13/2016	12	office area	32.8	58.4
10/13/2016	12	ironing	32.9	57.2
10/13/2016	12	sewing	33.8	54.7
10/13/2016	12	cutting	33.0	57
10/13/2016	12	cutting	32.4	59.2
10/13/2016	12	sewing	32.7	58.8
10/13/2016	12	ironing	33.1	57.6
Average	**12**		**33.0**	**57.5**
10/14/2016	7	sewing	32.5	67.3
10/14/2016	7	sewing	34.1	59.1
10/14/2016	7	sewing	34.2	57.4
10/14/2016	7	sewing	34.4	55.9
10/14/2016	7	cutting	33.9	55.9
10/14/2016	7	inspection	33.9	57.4
10/14/2016	7	packing	34.3	55.5
Average	**7**		**33.9**	**58.4**

Temperature and Relative Humidity Readings at Hansae Vietnam Factories

Date	Factory	Area	Temp ^{o}C	RH%
10/14/2016	9	office area	32.7	52.3
10/14/2016	9	packing	32.8	51.9
10/14/2016	9	ironing	32.8	53
10/14/2016	9	sewing	32.4	60
10/14/2016	9	thread cutting	31.1	62.7
10/14/2016	9	warehouse	31.4	64.1
10/14/2016	9	warehouse	30.8	68.4
10/14/2016	9	thread cutting	30.3	71.5
10/14/2016	9	sewing	31.4	66.3
10/14/2016	9	cutting	32.1	64.9
Average	**9**		**31.8**	**61.51**
10/14/2016	10	cutting	35.0	51.7
10/14/2016	10	inspection	35.1	54.4
10/14/2016	10	cleaning	34.3	59.8
10/14/2016	10	sewing	34.7	56.8
Average	**10**		**34.8**	**55.7**
10/13/2016	5	outside	29.4	65
10/13/2016	11	outside	29.2	75.1
10/13/2016	11	outside	31.2	62.1
10/13/2016	12	outside	32.8	57
10/13/2016	12	outside	34.7	47.8
Average			**31.5**	**61.4**
10/14/2016	9	outside	32.5	53.6
10/14/2016	10	outside	35.7	47.3
Average			**34.1**	**50.5**

Instruments:
TSI Model 9565 Air Velocity meter and Model 982 Temperature and RH probe
TSI Model 7565-X-Q-Trak meter and Model 982 Temperature and RH probe
Instruments were calibrated according to manufacturer's specifications