

Better Work Indonesia: Garment Industry **3rd Compliance Synthesis Report**

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Executive Summary

The Better Work Indonesia programme, a partnership between the International Labour Organization (ILO) and the International Finance Corporation (IFC), aims to enhance enterprise-level performance and promote competitiveness of the garment industry by advancing compliance with Indonesian labour law and ILO core labour standards in garment factories. Better Work Indonesia began conducting independent assessments of working conditions in apparel factories in Indonesia in July 2011.

Each assessment consists of four on-site person days and includes management interviews, union and worker interviews, document reviews, and factory observation. The goal of these assessments is to establish a baseline of performance against which participating factories can collaborate and cooperate with Better Work Indonesia and participating buyers to make improvements.

Better Work produces public synthesis reports of factory assessments for each country programme on a regular basis. These reports provide transparent information for all programme stakeholders regarding working conditions in the participating factories. Independent research commissioned by Better Work provides evidence that public reporting significantly contributes to continuous improvement in factory compliance levels.

This third synthesis report illustrates findings of assessments that the programme carried out between March 2012 and March 2013 in 40 factories in the Greater Jakarta Area (JABODETABEK). Twenty-three of the factory assessments included in this report were included in previous synthesis reports. Eleven factories are in their second cycle of assessment and advisory services, and the findings highlight the changes in non-compliance. These factories employ a total of 76,325 workers out of a total estimated 500,000 workers in the export apparel industry.

This sample is characterized by factories employing between 122 and 8,044 workers. The data collected illustrate non-compliance with labour standards according to eight clusters: four based on ILO core labour standards regarding child labour, forced labour, discrimination, and freedom of association (FoA) and collective bargaining. The other four clusters are based on national laws pertaining to working conditions: compensation, contracts and human resources, occupational safety and health (OSH), and working time.

Initial assessment results highlighted the following:

In the areas of core labour standards:

There were three findings under the child labour cluster related to employers not having a system in place to verify the age of workers prior to hiring. With respect to discrimination, most factories (92%) are non-compliant in this cluster due to not recruiting at least 1% of their workers being people with disabilities. No factory was non-compliant with respect to forced labour. The main non-compliance findings with respect to collective bargaining (55%) was that workers were not informed about the contents of the agreements, employers do not implement the agreement and/or the agreement had conditions that were less favourable than the law.

In the areas of working conditions (national law):

Incorrect overtime payment (78%) and insufficient social security benefits (60%) were the main areas of non-compliance with respect to remuneration. Findings of subcontractors and workers not receiving contracts (88%) and weak bipartite committees (85%) reflect poor contracting procedures and a lack of commitment to engage in social dialogue. Of significant concern was that in eight

factories, workers raised concerns about harassment, sexual harassment and bullying in the workplace. Most factories continue to be non-compliant with respect to OSH, with all factories not being fully prepared for an emergency. Excessive overtime continues to be a major area of non-compliance in all factories.

Of the 11 factories that are in their second cycle, two are now compliant with respect to employing people with disabilities. However, there has been a deterioration in the level of compliance with respect to compensation, working hours and contracting.

Better Work Indonesia has been working with Inspectors and government mediators to strengthen factory-level LKSB and OSH committees, as these two committees are often still not functioning properly.

Section I: Introduction and Methodology

Introduction

The garment sector in Indonesia is among the largest in the world, and is growing at over 8% per year, as enterprises move from China to Indonesia. This sector is expected to continue to be a major contributor to Indonesia's economic future, considering Indonesia's comparative advantages for labour-intensive industries and a sizable domestic market of 240 million people. Due to the global economic downturn in 2008, there was a reduction in the number of factories, production, and exports in the garment sector. However, this trend has been gradually reversing since 2011. Indonesia is currently ranked 12th in the world, in textile exports.

The Better Work Indonesia programme, a partnership between the International Labour Organization and the International Finance Corporation, aims to enhance enterprise-level performance and promote competitiveness of the garment industry by improving compliance with Indonesian labour law and ILO core labour standards in garment factories.

The programme engages with participating factories by conducting independent assessments and offering advisory and training services. As part of its mandate of sharing information with all programme stakeholders, and encouraging continuous improvement, Better Work Indonesia will use aggregate factory assessment data to produce public synthesis reports that review the performance of all participating factories during the reporting period. This third synthesis report provides an overview of the working conditions of 40 factories assessed during the period March 2012–March 2013.

Institutional Context

To establish a sustainable service, Better Work Indonesia works with international buyers sourcing from Indonesia, as well as with key stakeholders including the Indonesian Ministry of Manpower and Transmigration (MoMT), the Indonesian Employers' Association (APINDO), the Indonesian Textile Association (API), the Korean Garment Association (KOGA) and the four main union federations of the garment industry: Garteks, TSK Kalibata, TSK Pasar Minggu, and SPN.

The Better Work Indonesia programme is in line with key Government of Indonesia economic development policies, which focus on reducing poverty and improving people's welfare. The Current National Medium-Term Development Plan (Rencana Pembangunan Jangka Menengah Nasional – RPJMN) 2010–2014 recognized the need to increase the competitiveness of the manufacturing industry, following Presidential Decree No. 28 of 2008 on the National Industrial Policy, which recommended that employment-intensive industries (textile and textile products) become a priority industrial cluster to support the Indonesian economy. Furthermore, the RPJMN also stated that to improve export performance, the Indonesian trade policy in 2010–2014 should focus on industries with high-value added products with high global demand, which also includes the garment industry.

From a legal standpoint, Indonesia is unique among ASEAN nations because it was the first country to ratify all eight ILO core conventions. In addition, strong domestic law in the form of the Trade Union Act (No. 21 of 2000) and the Manpower Act (No. 13 of 2003) provides a solid national framework for decent work. Indonesia, therefore, enjoys a favourable legal backdrop for good labour practices. The Trade Union Act gives workers the right to organise into “free, open,

independent, democratic and responsible” trade unions, federations and confederations of trade unions. Meanwhile, the Manpower Act, which was envisioned under the 1998 Labour Law Reform Programme of Indonesia, outlines regulations regarding equal opportunity, workplace relations, worker protection and wages, labour inspection, criminal and administrative sanctions, and transitional sanctions.

In 2000, Indonesia started to decentralize government services primarily to the district level. Local government agencies are now responsible for the delivery of core services. However, local government budget allocations from the central government are inadequate to meet the diverse range of services a district government must provide in accordance with their mandate. Therefore, District Manpower agencies have insufficient resources to provide appropriate labour inspectorate services to all companies in a district. Decentralized legislation also makes Indonesia unique among other Better Work countries. For example, provincial or regional wage councils for each province or region determine the minimum wages for each district in their respective province—and in some cases, sectoral minimum wages—through tripartite negotiations that are subject to the approval of the Provincial Governor. For this reason, information on minimum wages, in addition to other compliance points, which is specified in each assessment report, may vary from factory to factory.

Better Work Methodology

Better Work carries out factory assessments to monitor compliance with international labour standards and national labour law. In its factory and industry-level reports, it highlights *non-compliance* findings. Better Work reports these figures to help factories easily identify areas in need of improvement. Collecting and reporting this data over time will help factories demonstrate their commitment to improving working conditions.

Better Work organises reporting into eight areas, or clusters, of labour standards. Four of the clusters cover fundamental rights at work and four cover basic conditions at work. Each of the eight clusters is divided into its key components, known as “compliance points.” With very limited exceptions, the compliance points are the same in all Better Work countries.

In 1998, Member States, workers, and employer representatives at the International Labour Organization identified fundamental principles and rights at work based on eight very widely ratified International Labour Conventions (29, 87, 98, 105, 100, 111, 138, and 182). These Conventions provide the framework for assessing non-compliance with the Child Labour, Discrimination, Forced Labour, and Freedom of Association and Collective Bargaining clusters across all Better Work country programmes.

The four other clusters assess conditions at work, including compensation, contracts and human resources, occupational safety and health, and working time. The compliance points covered in these clusters are largely consistent across countries, however, each compliance point contains specific questions that may vary from country to country due to differences in national legislation. National law is used as a benchmark regardless of whether it is in line with international conventions that have been ratified by the country. In countries where national law either fails to address or lacks clarity around a relevant issue regarding conditions at work, Better Work establishes a benchmark based on international standards and good practices.

The detailed list of compliance points within each cluster is indicated in the table below. As of this report, the Union Operations compliance point has been split into two compliance points: Freedom to Associate, which covers workers’ freedom to form and join or not join unions, and union freedom

to form and join federations and confederations; and Union Operations, which covers requirements relating to union access and time off for union activities.

	Compliance Clusters	Compliance Points
Core Labour Standards	1 Child Labour	1. Child Labourers 2. Unconditional Worst Forms 3. Hazardous Work 4. Documentation and Protection of Young Workers
	2 Discrimination	5. Race and Origin 6. Religion and Political Opinion 7. Gender 8. Other Grounds ¹
	3 Forced Labour	9. Coercion 10. Bonded Labour 11. Forced Labour and Overtime 12. Prison Labour
	4 Freedom of Association and Collective Bargaining	13. Freedom to Associate 14. Union Operations 15. Interference and Discrimination 16. Collective Bargaining 17. Strikes
Working Conditions	5 Compensation	18. Minimum wages 19. Overtime wages 20. Premium Pay ² 20. Method of Payment 21. Wage Information, Use and Deduction 22. Paid Leave 23. Social Security and Other Benefits
	6 Contracts and Human Resources	24. Employment Contracts 25. Contracting Procedures 26. Termination 27. Dialogue, Discipline and Disputes
	7 Occupational Safety and Health (OSH)	28. OSH Management Systems 29. Chemicals and Hazardous Substances 30. Worker Protection 31. Working Environment 32. Health Services 33. Welfare Facilities 34. Worker Accommodation 35. Emergency Preparedness
	8 Working Time	36. Regular Hours 37. Overtime 38. Leave

Calculating Non-Compliance

Better Work calculates **non-compliance rates** for each factory and reports these in individual factory reports. The non-compliance rate is reported for each sub-category, or compliance point, within a cluster. A compliance point is reported to be non-compliant if one question within it is found in non-compliance.

In public synthesis reports, Better Work calculates the average non-compliance rates for all participating factories in each of these same sub-categories. For example, an average non-

¹ As described in more detail below, this compliance point covers discrimination relating to disability as well as HIV/AIDS status.

² Indonesia does not have any requirements under the category of Premium Pay.

compliance rate of 100% means that all participating factories were found to have a violation in that area.

While it is a strict indicator, the non-compliance rate is useful for Better Work to aggregate and compare data across countries. However, this number is not sufficient to fully describe the specific issues that Enterprise Advisors have observed during their assessment. For this reason, tables highlighting key non-compliance findings at the question level are also presented in Section II with the title of “In Focus” tables. These tables, showing the number of factories found to be non-compliant to each specific question, allow the reader to fully appreciate the specific challenges identified in factory assessments under particular compliance points.

Note on the factories represented in this report

The synthesis report presents a snapshot of the non-compliance in the participating industry of the respective country. The rates presented in the synthesis report refer to participating industry averages.

This synthesis report presents the aggregated findings of 29 first assessments and 11 second assessments by Better Work Indonesia, covering 40 factories assessed between March 2012 and March 2013.

Limitations in the assessment process

The factory-level assessments carried out by Better Work Indonesia follow a thorough checklist of over 280 questions covering the abovementioned labour standards. Information is gathered through a variety of sources and techniques, including document reviews, observations on the shop floor, and interviews with managers, workers and union representatives.

The detailed factory assessment reports are based on what was observed, investigated and analyzed during the performance of the actual assessment and a review of relevant documents collected during the assessment visit. Each factory is given seven days before the report becomes official to provide feedback that may in some cases impact the final report language.

Among the issues covered in Better Work’s compliance assessment tools, sexual harassment is one of the most sensitive and most difficult to detect during factory assessments. It is often unreported due to fear of retaliation, power imbalance between victim and perpetrator, as well as cultural perceptions of stigma associated with it. As a result, the assessment of sexual harassment in the workplace by Better Work Indonesia is likely to underreport the extent of its occurrence. Nevertheless, Better Work impact assessment, which uses a different research methodology from factory assessments, has indicated that sexual harassment is a concern for workers in Indonesian garment factories.³ Better Work Indonesia, in collaboration with the Better Work global programme, has been developing a set of tools to help Enterprise Advisors identify sexual harassment in factories, and to help factories prevent and address sexual harassment through awareness raising and training.

³ Impact Research - Indonesia Baseline Report - Worker Perspectives from the Factory and Beyond (available at betterwork.org/Indonesia)

Section II: Findings

Average Non-Compliance Rates

Chart 1 provides an overview of average non-compliance rates for factories covered in this report. Key findings are provided below, followed by a section with additional details.

In the areas of Core Labour Standards:

Child labour – the main area of non-compliance is poor age verification systems.

Forced labour – there were no findings.

Discrimination- employers continue to meet their legal requirements of having at least 15 of their workforce comprising people with disabilities.

Freedom of association – the main issue is the poor quality of collective bargaining agreements and that workers are not properly informed of the contents of collective bargaining agreements.

In the areas of Working Conditions (national law):

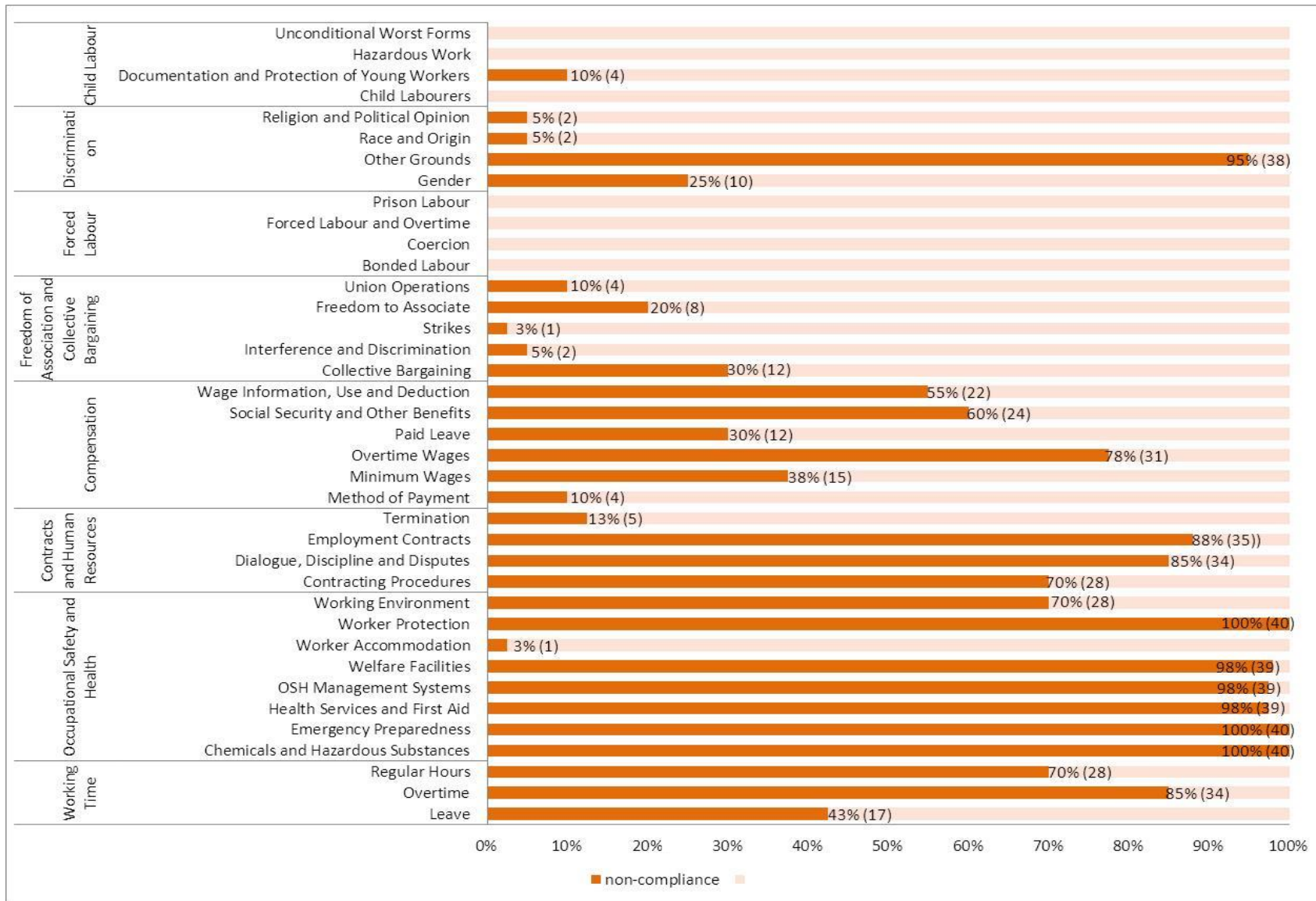
Compensation – of significant concern is that workers are not receiving their correct overtime component of their salary.

Contracts and Human Resources – workers are not receiving a copy of their contracts. LKSB committees are still not operating effectively.

Occupational safety and health – most factories have high levels of non-compliance across all compliance points. This is mainly due to weak OSH management systems as a result of the lack of senior management commitment and poorly functioning OSH committees.

Working time – in most factories workers are often working more than 3 hours per day and over 14 hours per week.

Chart 1: Average non-compliance rates^{4,5}



⁴ A factory is found non-compliant in a compliance point if it is found out of compliance on any one aspect of it.

⁵ The non-compliance findings under Other Grounds of Discrimination refer to the failure to hire at least one person with a disability for every 100 workers.

Detailed Findings

This section describes the levels of non-compliance across participating factories for each subsection (compliance point) within each of the eight categories of labour standards covered by the Better Work Indonesia assessments. Through the In Focus tables, it presents detailed findings at the question level for a number of compliance points.

1. Core Labour Standards

a. Child Labour

There were four findings under Documentation and Protection of Young Workers related to employers not having a system in place to verify the age of workers prior to hiring. For example, from the personnel records, different dates of birth have been found on the copy of the school certificate and the individual's copy of their national identity card.

b. Discrimination

Gender Discrimination is further explored in the In Focus table below.

In Focus 1: Gender

Question	Number of factories out of compliance
Do job announcements refer to the applicant's gender?	6
Is an applicant's gender a factor in hiring decisions?	1
Is gender a factor in decisions regarding conditions of work?	1
Is gender a factor in decisions regarding pay?	1
Is gender a factor in decisions regarding opportunities for promotion or access to training?	0
Is there sexual harassment of workers in the workplace?	1
Is gender a factor in the employer's decisions regarding termination or retirement of workers?	0
Does the employer require pregnancy tests or the use of contraceptives as a condition of employment?	1
Does the employer change the employment status, position, wages, benefits or seniority of workers during maternity leave?	0
Is maternity leave excluded from workers' period of continuous service?	0
Does the employer terminate workers who are pregnant or on maternity leave or force them to resign?	0

Most of the non-compliance findings stem from job announcements in which the employer specifies the requirement of an applicant's gender, for example, female for sewing workers and quality control, and male for mechanic/boiler attendants.

The non-compliance findings reported under Other Grounds of Discrimination refers to the failure to hire workers with disabilities according to Indonesian Labour Regulations. Thirty-eight out of total 40 factories had not complied with the requirement to employ at least one person with a disability for

every 100 workers. This is due to most employers not knowing the regulations to hire and accommodate people with disabilities in the factories. The Other Grounds compliance point also covers discrimination on grounds of real or perceived HIV/AIDS status, however, no non-compliance was reported in this area.

The 5% non-compliance rate in Race and Origin Discrimination is due to two factories where recruitment materials such as job announcements or job application forms referred to the applicant's race, colour or origin. Recruitment materials in one factory referring to the applicants' religion were also cited under Religion and Political Opinion (5%). Furthermore, it was found in another factory that applicants' religion or political opinions were a factor in hiring decisions.

c. Forced Labour

There were no Forced Labour findings.

d. Freedom of Association and Collective Bargaining

The former Union Operations compliance point has been split into two compliance points: Freedom to Associate, which covers workers' freedom to form and join or not join unions, and union freedom to form and join federations and confederations; and Union Operations, which covers requirements relating to union access and time off for union activities.

Regarding Freedom to Associate, three factories were found in non-compliance because workers were not free to form a union. (These findings were previously presented in the Better Work Indonesia 2nd Compliance Synthesis Report.) In four factories, workers were not free to join a union of their choice. (Two of these findings were previously reported.) In one factory, workers are automatically registered with the only union in the factory, without any confirmation from the workers that they want to join the union.

Under Union Operations, in four factories, the employer did not allow workers to carry out trade union activities during working hours as agreed by both parties. (Three of these findings were previously reported.)

There was a 30% non-compliance rate under Collective Bargaining, illustrated in the In Focus table below.

In Focus 2: Collective Bargaining

Question	Number of factories out of compliance
Did the employer consult with unions when developing or changing the company regulations?	1
Does the employer refuse to bargain collectively or refuse to bargain in good faith with the union(s)?	1
Does the employer try to undermine the union(s) by negotiating directly with individual workers?	0
Does the employer refuse to bargain collectively with union federations and confederations?	0
Has the employer limited the issues that can be negotiated?	0
If there is a collective bargaining agreement, are the provisions at least as favourable for workers as the law?	2

Does the employer inform workers about the contents of the collective bargaining agreement, and provide workers the text of the agreement?	7
Has the employer failed to implement any of the provisions of the collective bargaining agreement in force?	4

Enterprises that have a collective bargaining agreement are required by law to provide copy of the collective bargaining agreement (CBA) to the workers. However, most enterprises fail to provide copies to their employees.

There were two findings under Interference and Discrimination. In one factory that had more than one trade union, the employer involved only one when negotiating the Collective Labour Agreement. In another factory, the employer did not renew a worker's employment contract due to the worker's union membership or activities. (Both findings were already reported in the previous synthesis report.)

The 3% non-compliance rate in the Strikes compliance point reflects one factory where the employer tried to prevent workers from participating in a strike. (This finding was reported in the previous synthesis report.)

2. Working Conditions

e. Compensation

The highest non-compliance rate in the area of Compensation is related to Overtime Wages (78%), further explored in the In Focus table below.

In Focus 3: Overtime Wages

Question	Number of factories out of compliance
Does the employer pay workers the correct rate for all ordinary overtime hours worked (1.5 times the hourly rate for the 1st hour of overtime, and 2 times the hourly rate for each additional hour)?	24
Does the employer pay workers the correct rate for all overtime hours worked on public holidays?	3
Does the employer pay workers the correct rate for all overtime hours worked on weekly rest days?	11
Does the employer provide meals and drinks of at least 1,400 calories to workers working overtime for three hours or more?	14

Non-compliance in unpaid overtime has increased during the reporting period, as there has been an increase in findings that workers are being required to keep working after normal hours without overtime payment to achieve their targets. Workers are required to clock out at the end of normal working hours and return to their workstation to complete the agreed daily production quota. The other major finding is in defining the jobs of certain employees, like security guards and drivers. These positions have been defined as staff positions, which do not require overtime payment, as their total remuneration package is higher than the basic wage and includes an overtime component in the salary. This is defined as an “all in” contract. In some other cases, the compensation is less than the regulated overtime rate.

If workers work more than three hours overtime, they are to be provided with a meal and drink. The meal cannot be substituted for cash, which is often the case. The reason the regulation states that a

meal must be provided and not cash is to ensure that workers receive an appropriate meal. In some cases, the employer and union have agreed to substitute the meal for cash.

Social Security and Other Benefits has a 60% non-compliance rate, illustrated in the In Focus table below.

In Focus 4: Social Security and Other Benefits

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer collect contributions to social insurance funds from all workers?	13
Does the employer pay the required employer contribution to JAMSOSTEK for work related accidents, death and provident fund?	7
Does the employer provide health care benefits to all workers through JAMSOSTEK or another provider that offers at least the same benefits as JAMSOSTEK?	19
Does the employer forward employee contributions for social insurance funds to JAMSOSTEK?	3
Does the employer pay workers the religious holiday allowance (THR)?	6

Most factories assessed have decided to provide health care benefits through another provider, rather than providing health care benefits through the official government health care and social security provider, JAMSOSTEK. If a company decides to provide health care through another provider, the benefits must be the same or better than those offered by JAMSOSTEK. In seven factories, it was found that the benefits being provided through other providers were less than those provided by JAMSOSTEK. In December 2011, JAMSOSTEK released an updated table of benefits.

All employers register their workers with JAMSOSTEK, however, in many cases, the fixed allowance component of the employee’s salary is not included when determining the insurance premium.

In the Wage Information, Use and Deduction CP there is a 55% non-compliance rate. This is mainly due to 21 factories where employers kept more than one accurate payroll record. In five factories, employers made unauthorized deductions from wages.

There is a 38% non-compliance rate in Minimum Wages. In 10 factories, employers did not pay higher than district minimum wage for ordinary hours of work to permanent and non-permanent workers who have worked for more than one year. In nine factories, non-permanent workers were not paid the correct district minimum wage for ordinary hours of work. In three factories, permanent full time workers were not paid the correct district minimum wage for ordinary hours of work. In one factory, the employer did not pay piece-rate workers correctly for ordinary hours of work.

Paid Leave has a 30% non-compliance rate, illustrated in the In Focus table below.

In Focus 5: Paid Leave

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer pay workers correctly for paid public holidays?	0
Does the employer pay workers correctly during annual leave?	3
Does the employer pay workers correctly during sick leave?	4

Does the employer pay workers correctly when they are ill during the 1st and 2nd days of menstruation?	11
Does the employer pay workers correctly during personal leave (not including paternity leave)?	3
Does the employer pay workers correctly during maternity leave?	0
Does the employer pay workers correctly during breastfeeding breaks, as required under the work agreements, company regulations or collective agreement?	2
Does the employer pay workers correctly for paternity leave?	1
Does the employer pay workers correctly for other types of legally required leave?	0
Does the employer pay workers correctly during work stoppages?	2

If workers are ill during the first and second days of menstruation and cannot work, they are entitled to paid leave. Many enterprises are requiring workers to present a doctor's certificate, if workers want to take the leave, which is not required by the law, company regulations, or collective agreement. Also, workers face difficulties in obtaining menstruation leave from their supervisor.

Within the Method of Payment compliance point, in four factories wages were not paid on time.

f. Contracts and Human Resources

The highest non-compliance rates under Contracts and Human Resources were in Employment Contracts (88%), Dialogue, Discipline and Disputes (85%) and Contracting Procedures (70%). They are explored in In Focus tables below.

In Focus 6: Employment Contracts

<i>Question</i>	<i>Number of factories out of compliance</i>
Do all persons who perform work for the factory, both on the premises and offsite, have a contract?	34
Do the company regulations comply with legal requirements as stipulated in the labour law and regulations?	10
Do the employment contracts specify the terms and conditions of employment?	15
Does the employer give a copy of the work agreement in Bahasa Indonesia to workers?	16
Does the employer provide a letter of appointment to permanent workers with oral contracts?	7

In 34 factories, it was found that sub-contractors do not provide their employees with work agreements. Most factories have weak management systems to ensure their sub-contractors are complying to the laws and regulations with respect to the subcontractor's employees.

In Focus 7: Dialogue, Discipline and Disputes

<i>Question</i>	<i>Number of factories out of compliance</i>
Do the disciplinary measures comply with legal requirements?	2
Have any workers been bullied, harassed, or subjected to humiliating treatment?	13

Did the employer resolve grievances and disputes in compliance with legal requirements?	1
Does the factory have a functioning bipartite cooperation institution?	33

Most bipartite cooperation institutions (LKSB) are still not functioning properly, even though all factories have a registered LKSB. Better Work Indonesia observed that the workers' representatives are often not democratically elected by their fellow workers and the union is not involved in the LKS Bipartit. Meetings are not held on a regular basis.

In Focus 8: Contracting Procedures

Question	Number of factories out of compliance
Is the probationary period applied only to permanent workers and no longer than 3 months?	5
Does the employer comply with limits on the use of work agreements for a specified period of time (i.e., limits on the employment of non-permanent workers)?	21
Does the employer comply with the labour law and regulations on hiring migrant workers?	0
Does the employer comply with the law and regulations on subcontracting part of its work to another enterprise?	7
Does the employer comply with requirements concerning sub-contracted workers at the workplace?	8
Does the employer comply with requirements concerning home-based workers?	0
Do workers pay any recruitment fees?	1

The use of non-permanent workers (PKWT) contributes significantly to the non-compliance in this compliance point. This is partially due to the vagueness or possible abuse in interpreting the law on recruiting non-permanent workers. The MOMT has informed Better Work Indonesia that a garment manufacturer may use non-permanent workers for a maximum of two years in the first agreement, and this may be extended once for a maximum period of one year. However, it has been observed that workers have been contracted under non-permanent contracts more than two times and/or three years.

The Termination compliance piont has a 13% non-compliance rate. This is due to four employers not compensating workers for unused paid annual leave when they resigned or were terminated. In one factory, workers who resigned or were terminated did not receive all other legally required termination benefits. In one factory, the employer did not comply with legal requirements before reducing the size of the workforce due to changes in operations. In another factory, the employer did not comply with requirements regarding severance pay and reward for service. Some of these issues may be the subject of pending court actions.

g. Occupational Safety and Health

Similar to the previous synthesis report, this cluster has the highest non-compliance rates, with all factories having at least one non-compliance finding in Worker Protection, Chemicals and Hazardous Substances and Emergency Preparedness.

In Focus 9: Worker Protection

Question	Number of factories out of compliance
Are appropriate safety warnings posted in the workplace?	17
Are electrical wires, switches and plugs properly installed, grounded, and maintained?	15
Are materials, tools, switches, and controls within easy reach of workers?	10
Are proper guards installed and maintained on all dangerous moving parts of machines and equipment?	20
Are standing workers are provided with seats?	36
Are mechanical devices provided for lifting and moving heavy or bulky loads?	8
Are workers effectively trained and obliged to use the Personal Protective Equipment (PPE) that is provided?	27
Are workers effectively trained to use machines and equipment safely?	7
Do workers have suitable decent chairs?	8
Does the employer provide workers with all necessary personal protective clothing and equipment?	22

Electrical installations are poorly maintained in most factories. Although employers provide PPE most workers are not properly trained on the purpose of the equipment, hence seldom use the PPE provided. In some cases, the PPE is inappropriate for the working environment. Of major concern is the lack of seating facilities for standing workers, who are required to stand for 8-10 hour working days.

In Focus 10: Emergency Preparedness

Question	Number of factories out of compliance
Does the workplace have a fire detection and alarm system?	37
Does the workplace have adequate fire-fighting equipment?	17
Has the employer trained an appropriate number of workers to use the fire-fighting equipment?	0
Are emergency exits and escape routes clearly marked and posted in the workplace?	28
Are there enough emergency exits?	2
Are the emergency exits accessible, unobstructed and unlocked during working hours, including overtime?	24
Does the employer conduct periodic emergency drills?	4
Does the employer have the required certificates to operate the factory's machinery and equipment, and licensed operators?	11

The use of automatic fire detectors is mandatory in all garment factories, as they are rated as medium to high risk on the possibility of a fire. Most factories, 37 out of 40, have not installed automatic heat, smoke or flame detectors and alarms. Emergency exits and escape routes are poorly marked and are often blocked. In light of recent fires in garment factories, the Ministry now requires all garment factories to have a certified fire OSH expert.

In Focus 11: OSH Management Systems

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer record work-related accidents and diseases?	25
Does the factory have a written OSH policy?	26
Does the factory have a functioning OSH Committee?	37
Has the employer performed a general assessment of occupational safety and health in the factory?	26

Indonesian law requires any company with more than 100 employees to establish an OSH committee that is chaired by senior management and appoint a secretary, who is a certified General OSH Expert. Most factories do not have a certified General OSH Expert, and as a result they are found non-compliant with the requirement to have a functioning OSH committee. Hazard and risk assessments are of very poor quality and are not regularly updated.

In Focus 12: Health Services and First Aid

<i>Question</i>	<i>Number of factories out of compliance</i>
Are special medical checks provided when required?	6
Does the employer address safety and health risks to pregnant or nursing workers?	11
Does the employer comply with legal requirements regarding pre-assignment and annual medical checks for workers?	17
Does the employer comply with requirements on HIV/AIDS?	23
Does the employer provide adequate first-aid facilities?	19
Does the workplace have adequate trained first aid officers?	5
Has the employer ensured that there are a sufficient number of readily accessible first aid boxes/supplies in the workplace?	35

Health services in factories are variable. Although most factories have a health clinic the quality varies significantly between factories, with some factories having doctors or full-time nurses. Most factories do not train or inform their workers on HIV/AIDS. Factory health personnel are not aware of the joint Ministry of Health, Ministry of Manpower, APINDO and Trade Union guidelines on improving the health of women workers. Factory managers are also not aware of the regulations that all companies must have a company policy to support women to breastfeed and establish a facility to assist women who wish to breastfeed their children.

h. Working Time

The highest non-compliance rate in this cluster is in Overtime (85%). The In Focus table below provides more details.

In Focus 13: Overtime

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer prepare written instructions on overtime?	11

Does work on public holidays occur only under the conditions allowed by law?	0
Is overtime on regular workdays limited to 14 hours per week?	31
Is overtime on regular workdays limited to 3 hours per day?	32
Is overtime voluntary?	14

There is a 70% non-compliance rate in Regular Hours. This is due to regular weekly working hours exceeding 40 hours and regular daily working hours exceeding legal limits (7 hours a day, 6 days a week or 8 hours per day, 5 days a week) in 20 factories for each requirement. Also, in 19 factories, working time records did not reflect the hours actually worked.

There is a 43% non-compliance rate in the Leave compliance point. This is due to seven employers not providing annual leave as specified by law, and eight employers not providing leave when workers are ill during the first and second days of menstruation. In eight factories, workers were not provided the required breastfeeding breaks. There were non-compliance findings in terms of lack of sick leave (two factories), maternity, paternity and personal leave (one factory each).

Section III: Changes in Compliance

Methodology

This section of the synthesis report concerns only the **11 factories** that have been assessed more than once by Better Work Indonesia.

Chart 2 shows the changes in non-compliance that have occurred in these 11 factories between the most recent Better Work Indonesia assessment and the previous one. Better Work defines compliance effort as the difference in non-compliance between two consecutive Better Work assessments.

As such, positive percentages indicate improved performance and negative percentages indicate a decline in performance.

It is important to note that the data may not fully capture all improvements made at a factory, as a question or compliance point may still be non-compliant even if positive changes have been made.

Each cluster is explored in detail below:

Child labour – Although factories endeavour to improve their systems to prevent the recruitment of children, their systems often fail with poor document control and verification, as employees continue to submit documentation with conflicting birth date information.

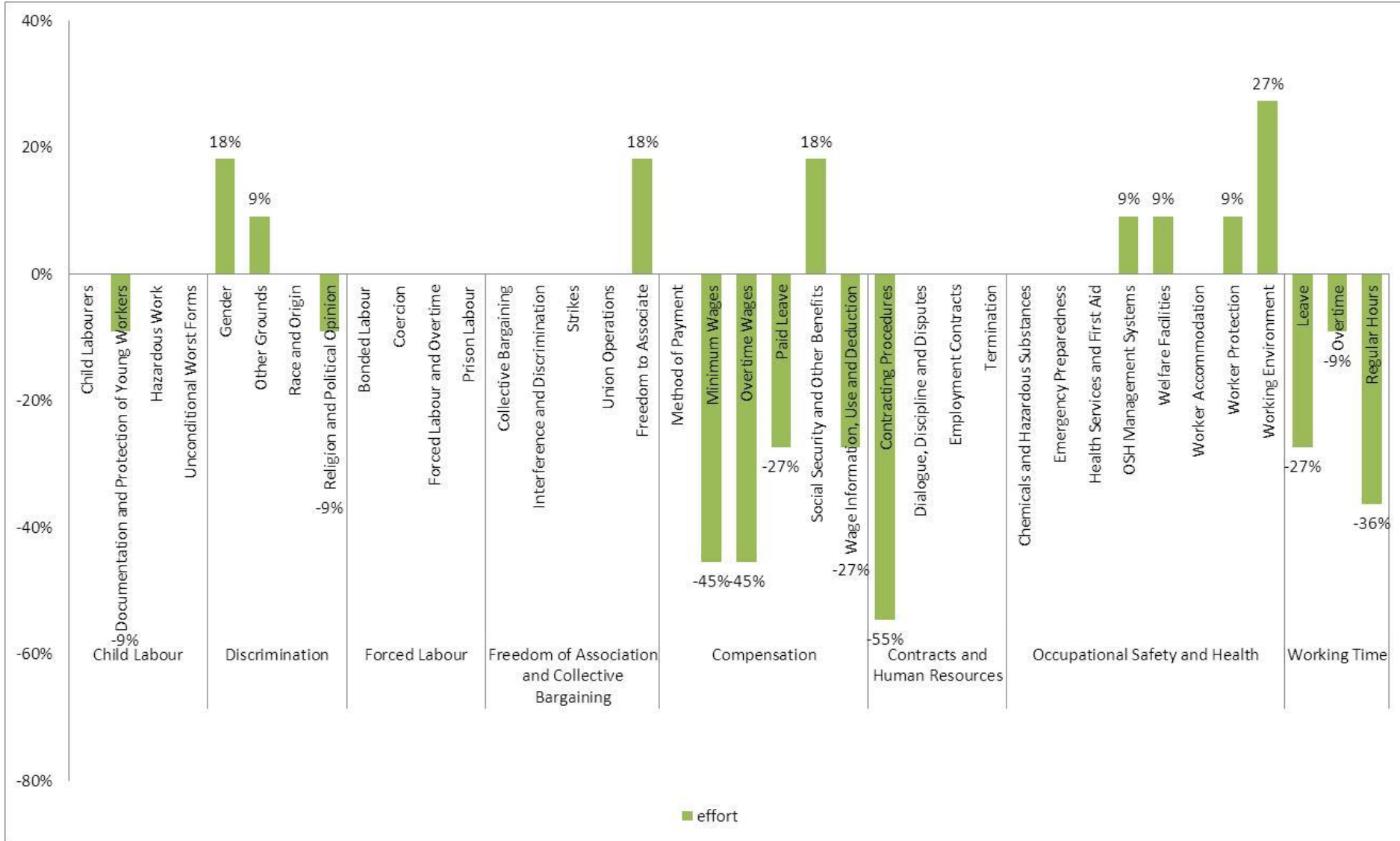
Discrimination – Two factories are now compliant with respect to employing workers with disabilities. Although these two factories have a low number of employees, less than 500, it demonstrates that factories can comply.

Compensation – There has been a significant deterioration in the level of non-compliance with respect to compensation. Factories maybe trying to reduce costs as there has been a significant increase in the minimum wage over the last 18 months. Employers requested to postpone passing on the minimum wage, but their request was rejected, delaying reimbursing workers. In many factories, workers are required to clock off and return to their workplace to finish the day's production quota.

Contracts and Human Resources – The significant increase in non-compliance with respect to contracting procedures has been greater clarity on the use of "all in" contracts and a broader definition of the scope of worker that includes drivers and security guards.

Occupational Health and safety – There has been an improvement in some factories with respect to improved working environment, although most factories have high workplace temperatures and are poorly ventilated.

Chart 2: Compliance effort



Section IV: Conclusions

Conclusions and Next Steps

Occupational safety and health continues to have high levels of non-compliance across all compliance points, however, there is a gradual improvement for factories participating in their second year of services. OSH management systems are weak, and of concern is that there has been very little improvement in emergency preparedness. To address this challenge, Better Work Indonesia, in collaboration with the Ministry of Manpower, has adapted the OSH general expert training to accommodate the needs and demands of employers to train their employees, and provided additional support to factories post training. Better Work Indonesia, in collaboration with the Ministry of Manpower, is offering employers and workers in registered factories additional training and support on emergency preparedness and fire safety. Factories are being offered assistance from organisations that specialize in strengthening factory health services. The focus is on training and supporting the factory-employed health team, whether it be a doctor or nurse, to improve service delivery. This support is being integrated with the joint Ministry of Health and Ministry of Manpower programme to improve the health of women in the workforce. Better Work Indonesia has recently published guidelines for employers to address harassment in the workplace, as well as guidelines for employers to develop company policies on assisting women who wish to continue breastfeeding when they return to work.

Employers still are finding it difficult to actively consider employing people with disabilities and meet the 1% quota as specified by the law. The concern that was raised in the past that employers do not discriminate and that no one with disabilities applies for job opportunities is no longer valid, as most employers have not developed policies to proactively recruit people with disabilities or procedures to accommodate disabled workers in the workplace. To address this problem, Better Work Indonesia has engaged a consultant to assist employers in partnering with organisations that support people with disabilities to offer employment and assist them in developing policies to accommodate workers with disabilities in the workplace. In response to this support, two factories are now compliant meeting their legal requirements.

Workers continue to be incorrectly remunerated, especially for overtime. In many cases, workers are required to clock off after normal working hours and then return to their work station to finish the daily production quota. In some cases, the union may have approved this practice in their collective bargaining agreement. Better Work Indonesia has recruited a production specialist and collaborated with the Ministry of Manpower on this issue. To address this, the Better Work Indonesia production specialist will work with one pilot factory to identify ways to enable managers to correctly define daily production quotas and reward workers correctly for meeting their production quotas.

Non-production workers are offered “all in” contracts, which enable them to receive a higher salary than production workers. However, detailed analysis of their timesheets highlights that they are working long hours and are not being correctly compensated for this additional work. Clarity on the definition on who is allowed to have an “all in” contract is required.

Bipartite committees (LKSB) are still often weak and not regularly meeting. There is a lack of senior management commitment and the worker representatives are often nominated by management. In some cases, factory-level trade unions are uncomfortable participating in LKSB meetings, as they believe it undermines their rights. To address this issue, mediators from the District Manpower

office will advise management, unions and workers on the roles and responsibilities of the union and the LKSB and how industrial relations can be improved in the workplace. The ILO supported Garment Sector Trade Unions Programme will continue to strengthen the capability of factory-level trade unions to better negotiate on behalf of their members. In non-unionized factories, targeted support is required to strengthen the capacity of worker representatives to discuss and negotiate issues on behalf of workers. Mediators will also facilitate and support unions and managers to address challenges in the workplace before they become industrial disputes and to seek official mediation assistance.

Annexes

Annex A: Factories Covered in this Report

PT Amos Indah Indonesia
PT Avery Dennison Packaging Indonesia
PT Buana Samudra Lestari
PT Citra Abadi Sejati (Cileungsi)
PT Citra Abadi Sejati (Purwakarta)
PT C-Site Texpia
PT Daehan Global (#1)
PT Daenong Global
PT Dream Sentosa Indonesia
PT Dream Wear
PT GRAHA KARYA TEKSTIL
PT Greentex Indonesia Utama
PT Hansae Indonesia Utama
PT Hansae Karawang Indonesia
PT Hansoll-Hyun
PT HS Apparel
PT Inkordan International
PT Inkosindo Sukses
PT Inwoo S&B Indonesia
PT Kahaindah Citragarment
PT Koin Baju Global
PT Kukdong International
PT Kyungseung Trading Indonesia
PT Leetex Garment Indonesia
PT Logos Indonesia
PT Makalot Industrial Indonesia
PT Mitra Garindo Perkasa
PT Mulia Cemerlang Abadi
PT Myung Sung Indonesia
PT Pan Pacific Nesia
PT Puku Benangsari
PT Sandrafine Garment
PT Sentraco Garmino
PT Seok Hwa Indonesia
PT Shinwon Indonesia
PT Taitat Putra Rejeki
PT Trigoldenstar Wisesa
PT Ungaransari Garments Pringapus
PT Willbes Global
PT. Daehan Global II

Annex B: Buyers Participating in Better Work Indonesia

1. Abercrombie & Fitch
2. Adidas Group
3. American Eagle Outfitters
4. Ann Inc
5. Columbia Sportswear Company
6. GAP Inc
7. H&M
8. Jones
9. New Balance
10. Nordstrom
11. Pentland
12. PvH
13. Nike
14. Sears
15. Recreational Equipment Inc
16. Talbots
17. Target
18. Walmart