

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**23 Aug 2021**



## Factory Information

FLA Affiliates	Outerknown
Country	China
Number of Workers	122

## Understanding this Report

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

## FLA Code Element

## Number of Violations

Compensation (C)	5
Employment Relationship (ER)	7
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	6
Hours Of Work (HOW)	2

## Assessment Information

Assessor	Openview- China Shenzhen
Assessment Date	23 Aug 2021

Assessment Purpose	Factory Assessment (In-Person)
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## ASSESSMENT RESULTS

### Compensation (C)

Benchmark ID	C.12.1
Benchmark Details	All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc.
Finding Details	The contribution base of the five types of social insurance is not in line with legal requirements. The factory contributes to five types of social insurance based on CNY 3,457 (USD 533) per month, which is not in line with the legal requirement of contribution based on the worker's average monthly wage of the previous year. 30% of workers' average monthly wages of the previous year were higher than the current contribution base, ranging from CNY 3,600 (USD 555) to CNY 6,500 (USD 1,003).
Recommendation for Immediate Action	Contribute to social insurance based on worker's average monthly wage of previous year.
Compliance Classifications	Immediate Action Required
Local Law	Social Insurance Law of the PRC, Article 12 and Article 60
Benchmark ID	C.8
Benchmark Details	All workers shall be credited with all-time worked for an employer for purposes of calculating length of service and determine the benefits to which workers are entitled.
Finding Details	The factory does not take workers' external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by legal requirements.

Recommendation for Immediate Action	Calculate annual leave based on workers' cumulative working experience (working age).
Compliance Classifications	Immediate Action Required
Local Law	Implementation Measure of Workers' Paid Annual Leave, Article 4
Benchmark ID	C.9.3
Benchmark Details	Employees shall be compensated for overtime hours at such premium rate as is legally required in the producing country
Finding Details	The factory calculates overtime compensation based on the wage ranging from CNY 1,920 (USD 296) to CNY 2,600 (USD 401), instead of workers' actual wage ranging from CNY 2,100 (USD 324) to CNY 3,800 (USD 586). As a result, workers receive insufficient compensation for overtime hours.
Recommendation for Immediate Action	Calculate and pay overtime based on workers' actual wage amount.
Compliance Classifications	Immediate Action Required
Local Law	The Management Measure on Wage payment of Shandong Province, Article 25
Benchmark ID	C.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning the payment of compensation to workers.

Finding Details	The factory does not provide social insurance to all eligible workers. There are a total of 193 workers in the factory, including 31 retired but re-recruited workers and 4 new hires. 158 workers are eligible for social insurance contributions. The factory has provided 152 out of 158 eligible workers (96.2%) with five types of social insurances, including pension, work-related injury, medical, maternity, and unemployment insurances. As a supplement, the factory has provided commercial accidental injury insurance to 53 workers, with a maximum benefit amount of CNY 800,000 (USD 123,457) per worker.
Recommendation for Immediate Action	Provide social insurance to all eligible workers.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 72
Benchmark ID	C.21.1
Benchmark Details	Employers shall provide all legally mandated benefits, including holidays, leave, bonuses, severance payments and 13th month payments to all eligible workers within legally defined time periods.
Finding Details	The factory does not provide Housing Provident Fund to any of the 158 eligible workers.
Recommendation for Immediate Action	Provide all eligible workers with the legally required Housing Provident Fund.
Compliance Classifications	Immediate Action Required
Local Law	Regulations on Management of Housing Provident Fund, Article 15
<b>Employment Relationship (ER)</b>	
Benchmark ID	ER.1.1

Benchmark Details	Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes.
Finding Details	The factory does not have policies or procedures managing retrenchment.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.6.1
Benchmark Details	Employers shall have written policies and procedures and implement practices that encourage ongoing training of all categories of workers with the goal of raising or broadening skills in order to advance in their careers within the factory or beyond.
Finding Details	The factory does not have a policy or procedures on personal development to encourage workers for ongoing training or raising skills to achieve in their career.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.7.1

Benchmark Details	Employers shall have written policies and procedures with regard to performance reviews that outline the review steps and process, demonstrate linkages to job grading, prohibit discrimination, are provided in writing and seek feedback and agreement/disagreement from employees in writing, and that follow all local legal requirements.
Finding Details	The factory does not establish the performance review procedure or conduct performance review for any production workers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.4
Benchmark Details	Employers shall inform workers about workplace rules, environmental protection systems, health and safety information, and laws regarding workers' rights with respect to freedom of association, compensation, working hours, and any other legally required information, and the FLA Code through appropriate means, including posted in local language(s) throughout the workplace's common areas.
Finding Details	The factory does not communicate the FLA Code to its workers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.19.1



Benchmark Details	Employers shall maintain on file all documentation needed to demonstrate compliance with the FLA Workplace Code and required laws.
Finding Details	The factory does not communicate Outerknown's Code of Conduct to its workers. The factory does communicate its own Code of Conduct.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.1.3
Benchmark Details	Employers should implement an annual, review process with input from workers of all policies, procedures and their implementation to ensure they meet legal requirements and the FLA Workplace Code.
Finding Details	The worker integration component is missing across all Employment Functions. This indicates that the factory has not established procedures to request and receive workers' input and feedback regarding the creation, implementation and updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.18.3.2
Benchmark Details	Workers have the right to participate and be heard in any disciplinary procedure against them.

Finding Details	The current disciplinary system does not state that workers have the right to participate in or to be heard in any disciplinary procedure against them.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

### Freedom Of Association And Collective Bargaining (FOA)

Benchmark ID	FOA.10
Benchmark Details	Employers shall refrain from any acts of interference with the formation or operation of workers' organizations, including acts which are designed to establish or promote the domination, financing or control of workers' organizations by employers.

Finding Details	<p>FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations’ mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members’ assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.</p>
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

## Health, Safety And Environment (HSE)

Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	The needle guards on about 30% of sewing machines are too high to prevent broken needles from hurting operators.

Recommendation for Immediate Action	Install needle guards in an appropriate height to prevent broken needles from hurting operators.
Compliance Classifications	Immediate Action Required
Local Law	Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6
Benchmark ID	HSE.6.1
Benchmark Details	All safety and medical equipment (e.g. fire fighting equipment, first aid kits) shall be available in sufficient numbers throughout the workplace, maintained and stocked as prescribed, and easily accessible to workers.
Finding Details	1. The fire brigade does not have the appropriate personal protective equipment (PPE) to fight fires, including breathing apparatus, firefighter uniform and helmet. 2. The factory does not post the name or contact information for the medical response personnel in the production building #2. 3. Workers in the weaving workshop run in two shifts, but there is only one trained first aid personnel available in the weaving workshop.
Recommendation for Immediate Action	1. Provide appropriate personal protective equipment (PPE) to fire brigade to fight fires. 2. Post the name and contact information for medical response personnel throughout the factory. 3. Train sufficient first aid personnel covering all shifts.
Compliance Classifications	Immediate Action Required
Local Law	Health Standard for Design of Industrial Enterprises, Article 8.1.2
Benchmark ID	HSE.4.1

Benchmark Details	Employers shall at all times be in possession of all legally required and valid permits and certificates related to health, safety, and environmental issues, such as: Purchase and storage of chemicals; Fire safety inspections; Machinery inspections; Waste disposal; Environmental licenses/permits; Sanitation permits, including those required for canteens; and Vehicle inspection and driver permits for all employer provided transportation.
Finding Details	The factory has never conducted any kind of assessment on occupational disease hazards since it was founded in 2019.
Recommendation for Immediate Action	Conduct assessment of current condition of occupational disease hazards and obtain valid reports.
Compliance Classifications	Immediate Action Required
Local Law	The Measures for Supervision and Administration of the “Three Simultaneities” for Occupational Disease Protection facilities at Construction Projects, Article 4
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.
Finding Details	1. The factory has not provided the on-job occupational health examination to one of the two mechanic workers in the weaving workshop who is exposed to hazardous dust and noise. 2. The factory installed one steam generator with the fuel of biomass particle in 2019. However, the factory has never conducted a supervision test for the exhaust gas.
Recommendation for Immediate Action	1. Provide on-job health examination to all eligible workers with hazardous exposure to dust and noise. 2. Conduct supervision test for the exhaust gas on an annual basis.
Compliance Classifications	Immediate Action Required

Local Law	China Law of Prevention and Control of Occupational Diseases, Article 26; Technical Specifications for Emission Monitoring of Stationary Source, Article 10.3
Benchmark ID	HSE.28
Benchmark Details	Employers shall create a system to ensure that all necessary Health and Safety protections are provided for external contractors; including protection when working within , confined spaces, maintenance issues, and general Health and Safety Issues.
Finding Details	The factory does not provide safety information to contractors.
Recommendation for Immediate Action	Provide safety information to contractors.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HSE.15
Benchmark Details	Employers shall not use negative incentives like monetary penalty schemes to ensure workers use machinery, equipment and tools safely and properly. Rather, training on risk awareness, proper machine use, as well as positive incentives like bonuses should be used.
Finding Details	The factory uses negative incentives to ensure that workers use machinery and tools safely. According to discipline records, one cutting worker got a written warning for not wearing metal gloves when operating the cutting machine in October 2019.
Recommendation for Immediate Action	Stop using negative incentives and provide more training to ensure that workers use machinery and tools safely.
Compliance Classifications	Immediate Action Required
Local Law	Nil

## Hours Of Work (HOW)

Benchmark ID	HOW.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning hours of work, public holidays and leave.
Finding Details	Overtime hours exceed the legal limit of 36 hours per month. Time records for the period from August 2020 to July 2021 and worker interviews indicate that about 80% of workers worked more than 36 overtime hours in all reviewed months except January and February 2021, with a maximum of 75.5 overtime hours in November 2020.
Recommendation for Immediate Action	Control overtime hours to achieve full compliance with legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 41
Benchmark ID	HOW.20
Benchmark Details	Employers shall have in place practices that conduct regular analysis of hours of work in their workplaces and procedures that demonstrate a commitment to progressively reducing excessive hours of work.
Finding Details	The factory production plan is based on 58 hours per week. Factory management sets production targets and the production system at a level that workers need to work 18 overtime hours (two hours per day on five workdays, eight hours on Saturday) per week.
Recommendation for Immediate Action	Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
Compliance Classifications	Immediate Action Required
Local Law	Nil

