

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**26 Aug 2021**



## Factory Information

FLA Affiliates	Amer Sports
Country	China
Number of Workers	868

## 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)	4
Employment Relationship (ER)	5
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	8
Hours Of Work (HOW)	2
Nondiscrimination (ND)	2

## Assessment Information

Assessor	Openview- China Shenzhen
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Assessment Date	26 Aug 2021
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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 insurances is not in line with the legal requirement. The factory contributes to pension, medical, work-related injury, unemployment and maternity insurances based on CNY 3,457 (USD 533) per month, which is not in line with the legal requirement of contributing based on worker's average monthly wage of previous year. 30% of workers' average monthly wages of previous year were higher than current contribution base, ranging from CNY 3,600 (USD 555) to CNY 6,300 (USD 972).
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.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 CNY 1,550 (USD 239), instead of workers' actual wage ranging from CNY 2,100 (USD 324) to CNY 4,500 (USD 694). As a result, workers receive less overtime compensation than the amount they should get.

Recommendation for Immediate Action	Calculate and pay overtime compensation 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.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	1. The factory pays the termination payout on the following regular pay day, rather than on the last workday as per legal requirement. For example, one worker's last workday was May 28, 2021 but was paid her termination payout on June 29, 2021. 2. The factory does not provide a Housing Provident Fund to any of the 571 eligible workers.
Recommendation for Immediate Action	1. Pay the termination payout on the last workday upon contract termination, as per legal requirement. 2. Provide all eligible workers with the legally required Housing Provident Fund.
Compliance Classifications	Immediate Action Required
Local Law	The Interim Provisions on the Payment of Wages, Article 9; Regulations on Management of Housing Provident Fund, Article 15
Benchmark ID	C.3.1.3
Benchmark Details	Where probationary employment is legally allowed, no workers shall work more than three months in this employment category.

Finding Details	The factory requires rehired workers to serve a new three-month probation period, although they have previously completed a probation period. For example, one worker joined the factory in 2017 and completed a three-month probation period. He was required to serve a new three-month probation period when rehired in 2019.
Recommendation for Immediate Action	Ensure the length of the probation period last no longer than three months.
Compliance Classifications	Immediate Action Required
Local Law	Nil

### Employment Relationship (ER)

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 policies 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.8
Benchmark Details	Employers shall have written policies and procedures with regard to promotion, demotion, and job reassignment that outline the criteria, demonstrate linkages to job grading, and prohibit discrimination or use of demotion or job reassignment as a form of penalty or punishment, are provided in writing and seek feedback from employees in writing, and follow all local legal requirements.
Finding Details	The factory promotes workers based on the supervisor's judgement instead of their job performance.
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 maintain the labor contracts or personnel files for the resigned workers.
Recommendation for Immediate Action	Maintain the labor contracts and personnel files for the resigned workers, as per legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Contract Law, Article 50; The Regulation on Banning Child Labor, Article 4
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	1. The factory does not review or update the internal policies and procedures annually. Most of the reviewed procedures have been effective since 2011. 2. 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
<b>Freedom Of Association And Collective Bargaining (FOA)</b>	
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	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.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

## Health, Safety And Environment (HSE)

Benchmark ID	HSE.9.1
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Benchmark Details	All chemicals and hazardous substances shall be properly labeled and stored in secure and ventilated areas and disposed of in a safe and legal manner, in accordance with applicable laws and international standards.
Finding Details	The factory does not post safety labels on the hazardous chemical (e.g. banana oil) containers in the golf club assembly workshop.
Recommendation for Immediate Action	Post safety labels on all hazardous chemical containers.
Compliance Classifications	Immediate Action Required
Local Law	Regulation of Chemical Safety Usage in Workplace, Article 19
Benchmark ID	HSE.19
Benchmark Details	All facilities including workplace buildings, toilets, canteens, kitchens, and clinics, shall be kept clean and safe and be in compliance with all applicable laws, including relevant sanitation, medical, and safety and health regulations.
Finding Details	1. The men's toilets in the production workshops are very dirty and there are a lot of cigarette ends, dirty water and wastepaper on the floor. 2. The factory does not keep food samples as per legal requirement.
Recommendation for Immediate Action	1. Ensure all toilet facilities are cleaned and sanitized. 2. Keep food samples for at least 48 hours as per legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	The Food Safety Operation Specifications for Catering Service, Article 7.9.2
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.

Finding Details	The factory does not mark the traffic line or walk path on the premises.
Recommendation for Immediate Action	Mark the traffic line and walk path clearly on the premises.
Compliance Classifications	Immediate Action Required
Local Law	Nil
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 factory places a total of six fire extinguishers directly on the ground in the fire pump control room and security guard room, which is not in compliance with legal requirement that the height from the bottom of the extinguisher to the floor should be no less than 0.08 meter. 2. The fire brigade does not have the appropriate personal protective equipment (PPE) to fight fires, including breathing apparatus, firefighter uniform and helmet. 3. The name and contact information for medical response personnel are posted throughout the factory. However, the information is not updated because those workers have resigned, and their certificates expired in 2015. 4. The eyewash station in the golf club assembly workshop has insufficient water flow due to low water pressure.
Recommendation for Immediate Action	1. Place fire extinguishers at the height of no less than 0.08 meter from the bottom of the extinguisher to the floor. 2. Provide appropriate personal protective equipment (PPE) to fire brigade to fight fires. 3. Update the name and contact information for medical response personnel and have it posted throughout the factory. 4. Increase water pressure for the eyewash station in the golf club assembly workshop.
Compliance Classifications	Immediate Action Required

Local Law	China Fire Prevention Law, Article 16 (3); China Law of Prevention and Control of Occupational Diseases, Article 25
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	1. The factory has never conducted any kind of assessment on occupational disease hazards since it was founded in 2009. 2. The factory has not registered one forklift purchased in May 2021 with local Special Appliance Quality Safety Monitoring Department.
Recommendation for Immediate Action	1. Conduct assessment of current condition of occupational disease hazards and obtain valid reports. 2. Register the forklift with local Special Appliance Quality Safety Monitoring Department in a timely manner.
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; Special Appliance Quality Safety Monitoring Regulation, Article 25
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.
Finding Details	The factory does not provide a post-job occupational health examination to all eligible workers with hazardous exposure. For example, two out of six eligible workers with hazardous exposure to chemical, dust and noise were not provided with post-job occupational health examination in December 2020.

Recommendation for Immediate Action	Provide post-job occupational health examination to all eligible workers with hazardous exposure.
Compliance Classifications	Immediate Action Required
Local Law	China Law of Prevention and Control of Occupational Diseases, Article 26
Benchmark ID	HSE.8
Benchmark Details	Workers shall be provided with training on the use and maintenance of personal protective equipment. Training shall be upon hire with periodic refresher training offered to all workers. Management will ensure use of PPE as necessary.
Finding Details	The factory provides anti-dust masks and anti-dust clothing to workers in the dipping section with hazardous exposure to dust. However, one out of six workers in the dipping section is wearing a regular mask rather than the provided anti-dust mask, and two out of six workers in the dipping section are not wearing the provided anti-dust clothing. In addition, the factory provides earplugs to workers in the polishing workshop with exposure to high level of noise. However, one out of six workers in the polishing workshop is not wearing the provided earplugs.
Recommendation for Immediate Action	Train and monitor workers to wear personal protective equipment (PPE) correctly and consistently during working hours.
Compliance Classifications	Immediate Action Required
Local Law	Law of the China on Work Safety, Article 42
Benchmark ID	HSE.17.1
Benchmark Details	Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains.

Finding Details	The factory does not take steps to reduce repetitive-motion stress or injuries. The factory does not provide chairs with armrests and backrests to workers working with sitting position or anti-fatigue mats to workers working with standing position.
Recommendation for Immediate Action	Provide chairs with armrests and backrests to workers working with sitting position and anti-fatigue mats to workers working with standing position.
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 60% of workers worked more than 36 overtime hours in all reviewed months except February 2021, with a maximum of 60 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 48 hours per week instead of regular working hours (40 hours). Factory management sets production targets and the production system at a level that workers need to work 8 overtime hours (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

## Nondiscrimination (ND)

Benchmark ID	ND.8.1
Benchmark Details	Employers shall abide by all protective provisions in national laws and regulations benefitting pregnant workers and new mothers, including provisions concerning maternity leave and other benefits; prohibitions regarding night work, temporary reassignments away from work stations and work environments that may pose a risk to the health of pregnant women and their unborn children or new mothers and their new born children, temporary adjustment of working hours during and after pregnancy, and the provision of breast-feeding breaks and facilities.
Finding Details	The factory does not provide five out of six lactating workers with one-hour paid rest break per day. Their remaining lactation period ranges from five to seven months after maternity leave, while they are working eight hours per day during lactation period, same as other workers.

Recommendation for Immediate Action	Provide the lactating workers with one-hour paid rest break per day, as per legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	Special Rules on the Labor Protection of Female Employees, Article 9
Benchmark ID	ND.3
Benchmark Details	Recruitment and employment policies and practices, including job advertisements, job descriptions, application and interview questions and job performance/evaluation policies and practices shall be free from any type of discriminatory bias.
Finding Details	The job advertisement posted at the factory gate contains age requirement. For example, general production jobs require applicants between 30 to 50 years old. However, it is not implemented and there are workers over 50 years old in current workforce.
Recommendation for Immediate Action	Remove age requirement from the job advertisement.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 12

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