

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**31 Aug 2021**



## Factory Information

FLA Affiliates	Amer Sports
Country	China
Number of Workers	421

## 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)	3
Employment Relationship (ER)	6
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	2
Hours Of Work (HOW)	2
Nondiscrimination (ND)	1

## Assessment Information

Assessor	Openview- China Shenzhen
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Assessment Date	31 Aug 2021
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Assessment Purpose	Factory Assessment (In-Person)
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## ASSESSMENT RESULTS

### Compensation (C)

Benchmark ID	C.21.2
Benchmark Details	All benefits shall be calculated correctly
Finding Details	The factory provides housing provident fund to all 275 eligible workers. However, the contribution base of the housing provident fund is not in line with legal requirement. The factory contributes to housing provident fund based on CNY 3,368 (USD 520) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of previous year. 80% of workers' average monthly wages of previous year were higher than current contribution base, ranging from CNY 4,500 (USD 694) to CNY 6,500 (USD 1,003).
Recommendation for Immediate Action	Contribute to the housing provident fund based on worker's average monthly wage of the previous year.
Compliance Classifications	Immediate Action Required
Local Law	Regulations on Management of Housing Provident Fund, Article 16
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 factory provides five types of social insurance to all 275 eligible workers. However, 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 3,368 (USD 520) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of the previous year. 80% of workers' average monthly wages of previous year were higher than the current contribution base, ranging from CNY 4,500 (USD 694) to CNY 6,500 (USD 1,003).
Recommendation for Immediate Action	Contribute to social insurance based on worker's average monthly wage of the 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 per legal requirement.
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
<b>Employment Relationship (ER)</b>	
Benchmark ID	ER.2

Benchmark Details	Employers shall ensure that all legally mandated requirements for the protection or management of special categories of workers, including migrant, juvenile, contract/contingent/temporary, probationary workers, home workers, and pregnant or disabled workers, are implemented. Where local laws and FLA standards differ, the employer is expected to follow the highest applicable standard.
Finding Details	The factory contributes to the Employment Security Fund in lieu of employing disabled workers. The current recruitment policy and procedure does not mention employment opportunities for disabled workers and there were no disabled workers hired. While this is allowed under the local law, the practice carries the risk of discrimination based on FLA Workplace Code and Benchmarks.
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 conduct performance review for any workers.
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.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, supervisors and managers.
Recommendation for Immediate Action	Communicate FLA Code to all workers, supervisors and managers through training or posting of the FLA Code at the workplace.
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	1. The factory does not review or update the internal policies and procedures annually. Most of the reviewed procedures have been effective since 2019. 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
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 regulate that workers have the right to participate in or to be heard in any disciplinary procedure against them. None of the interviewed workers have gone through the disciplinary process.
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.6.1
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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	The factory conducts periodic inspections of the firefighting facilities; however, the inspections are not comprehensive inspections and do not include inspecting the conditions of the fire alarm, fire hydrant, fire extinguisher, sprinkler system, fire pool and fire control room.
Recommendation for Immediate Action	Hire a qualified third party to conduct a comprehensive inspection for the firefighting facilities on an annual basis.
Compliance Classifications	Immediate Action Required
Local Law	The Fire Prevention Law of the People's Republic of China, Article 16
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 provide adjustable seats with back support to sewing workers working in sitting position or anti-fatigue mats to workers working in the standing position.
Recommendation for Immediate Action	Provide adjustable seats with back support to sewing workers working in sitting position and anti-fatigue mats to workers working in the standing position.
Compliance Classifications	Immediate Action Required
Local Law	Nil
<b>Hours Of Work (HOW)</b>	

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 August 2021 and worker interviews indicate that about 90% of workers worked more than 36 overtime hours in all reviewed months except February 2021, with a maximum of 88 overtime hours in May 2021.
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 56 to 60 hours per week. Factory management sets production targets and the production system at a level that workers need to work 16 to 20 overtime hours (eight to twelve hours on weekdays and 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 two female workers with one-hour paid rest break per day after the seventh month of pregnancy. Additionally, the factory has one female worker, who is less than 3 months pregnant, to work two overtime hours per weekday and eight overtime hours on Saturday, same as other workers.
Recommendation for Immediate Action	Provide female workers with one-hour paid rest break per day after the seventh month of pregnancy. Ensure female workers who are less than 3 months pregnant do not work overtime.
Compliance Classifications	Immediate Action Required
Local Law	Special Rules on the Labor Protection of Female Employees of Jiangsu Province, Article 11

