

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

06 Sep 2021



Factory Information

FLA Affiliates	Tommy Bahama Group
Country	China
Number of Workers	178

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)	8
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	8
Hours Of Work (HOW)	2

Assessment Information

Assessor	Openview- China Shenzhen
Assessment Date	06 Sep 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 pension, work-related injury, and unemployment insurance is not in line with legal requirements. The factory contributes to work-related injury and unemployment insurances based on CNY 2,100 (USD 325.19) per month and contributes to pension insurance based on CNY 4,588 (USD 710.46) per month, which is not in line with the legal requirement of contribution based on worker's average monthly wage of the previous year. All workers' average monthly wages of the previous year were higher than CNY 2,100 (USD 325.19) and around 10% of workers' average monthly wages of the previous year were higher than CNY 4,588 (USD 710.46), ranging from CNY 4,600 (USD 712.32) to CNY 5,500 (USD 851.68).
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 per 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.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 is a total of 93 workers working in the factory, including 18 retired but re-recruited workers. Social insurance payment proof of August 2021 indicates that 69 out of 75 eligible workers (92%) are provided with work-related injuries, medical, maternity, pension, and unemployment insurances in August 2021. As a supplement, the factory has provided commercial accidental injury insurance to all 93 workers, which is valid from August 12, 2021 to August 11, 2022 and has a maximum benefit amount of CNY 200,000 (USD 30,970) 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 75 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
Benchmark ID	C.15.1
Benchmark Details	Employers shall provide workers a pay statement in languages understood by workers each pay period and not less frequently than once a month,
Finding Details	The factory does not provide pay slips to workers.
Recommendation for Immediate Action	Provide pay slips to workers, as per legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	The Regulation of Guangdong Province on the Payment of Wages, Article 16

Employment Relationship (ER)

Benchmark ID	ER.5.1
Benchmark Details	Employers shall ensure that all supervisors are trained in national laws, workplace regulations, and the FLA Code, workplace grievance systems, and the appropriate practices to ensure compliance.
Finding Details	The factory does not provide specific training to relevant supervisors that includes all FLA's Code elements and Employment Functions.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
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	1. The factory has not established policies and procedures regarding retrenchment. 2. The factory has no written job descriptions prepared for any positions.
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 and procedures on personnel development that encourage ongoing training with the goal of raising or broadening workers' skills so they can advance in their careers.

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 have policies and procedures on performance reviews that include steps and processes, linkages to job grading, nondiscrimination, written feedback, and compliance with legal requirements. The factory does not conduct performance reviews for any workers, either.
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 does not have policies and procedures on promotion, demotion, and job reassignment.

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.18.3.4
Benchmark Details	Records of disciplinary action must be maintained in the worker's personnel file.
Finding Details	The factory does not maintain records of disciplinary actions in workers' personnel files.
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.3.3
Benchmark Details	Workers should be provided with written documentation that substantiates all the issues covered in orientation briefings.
Finding Details	The factory does not provide workers with a copy of workplace rules or employee handbooks in the orientation.
Recommendation for Immediate Action	Provide a copy of workplace rules or employee handbooks to workers in the orientation.
Compliance Classifications	Immediate Action 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.5.1.6
Benchmark Details	<p>All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following elements: evacuation procedures and fire drills</p>

Finding Details	The factory occupies the second floor of production building A# and the first and second floor of production building B#. There is another factory located in these two buildings. However, the factory has not conducted the joint fire drill with the other factory during the past 12 months.
Recommendation for Immediate Action	Conduct joint fire drills with the other factory sharing the same production buildings.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	1. Traffic lanes and walk paths are not marked on the factory premises. 2. The factory has not conducted an inspection for the lightning protection system on the rooftop of the production and dormitory buildings during the past 12 months. The latest inspection was conducted on December 12, 2017.
Recommendation for Immediate Action	1. Clearly mark the traffic lanes and walk paths on the factory premises. 2. Hire a qualified service provider to conduct the inspection for the lightning protection system on an annual basis.
Compliance Classifications	Immediate Action Required
Local Law	Technical Specifications for Inspection of Lightning Protection System in Building, Article 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	The factory has never conducted a comprehensive inspection for the firefighting facilities, including fire alarm, fire hydrant, fire extinguisher, sprinkler system, fire pool, and fire control room.
Recommendation for Immediate Action	Hire a qualified service provider 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.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 the construction of production buildings completed in 2004. 2. The factory has not obtained the environmental impact assessment and approval as required by local law since the production buildings were completed in 2004.
Recommendation for Immediate Action	1. Conduct an assessment of the current condition of occupational disease hazards and obtain valid reports. 2. Obtain the environmental impact assessment and approval, as per legal requirements.
Compliance Classifications	Immediate Action Required
Local Law	Law of Prevention and Control of Occupational Diseases, Article 17 and Article 18; The Regulations on Environmental Protection of Construction projects, Article 7
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 on-job occupational health examinations to the five eligible cutting workers with hazardous exposure to dust in the past 12 months. 2. The factory has not hired an authorized service provider to conduct the annual occupational hazards test during the past 12 months. 3. The factory stores products against the wall with no clearance in the finished goods warehouse, which is not in line with the legal requirement of at least 0.5m clearance from the wall.
Recommendation for Immediate Action	1. Provide on-job occupational health examinations to all eligible workers. 2. Hire an authorized service provider to conduct the annual occupational hazards test. Conduct internal health and safety risk assessment based on the test results and develop preventive plans. 3. Store materials and products with at least 0.5m clearance from the wall in the finished goods warehouse as per legal requirements.
Compliance Classifications	Immediate Action Required
Local Law	Law of the People's Republic of China on the Prevention and Control of Occupational Diseases, Article 35; Provisions on the Supervision and Administration of Occupational Health at Work Sites, Article 20; Rules for Warehouse Fire Prevention Safety Management, Article 18
Benchmark ID	HSE.30.2.4
Benchmark Details	The health, safety, and environmental policies shall contain the framework for a comprehensive health, safety, and environmental management system including a HS&E risk assessment within which the following are clear and regularly tested and reviewed: procedures that enable workers to raise health, safety, and environmental concerns.
Finding Details	The factory does not have procedures for workers to raise health, safety, and environmental concerns.
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	HSE.30.2.6
Benchmark Details	The health, safety, and environmental policies shall contain the framework for a comprehensive health, safety, and environmental management system including a HS&E risk assessment within which the following are clear and regularly tested and reviewed:protections to workers who allege health, safety, and environmental violations;
Finding Details	The factory does not have procedures including protection against retaliation for workers who raise health, safety or environmental concerns.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
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 with sitting positions or anti-fatigue mats to workers working with standing positions.
Recommendation for Immediate Action	Provide adjustable seats with back support to sewing workers working with sitting positions and anti-fatigue mats to workers working with standing positions.
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 August 2021 indicate that around 90% of workers' monthly overtime exceeded 36 hours in all reviewed months except February 2021, with the maximum up to 66 hours in July 2021.
Recommendation for Immediate Action	Control overtime hours to achieve full compliance with legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	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 to 56 hours per week. Factory management sets production targets and the production system at a level that workers need to work eight to sixteen overtime hours (eight overtime hours on Saturday and six to eight overtime hours on weekdays) 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

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