

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

23 Aug 2021



Factory Information

FLA Affiliates	Mainland Headwear Holdings Lim
Country	China
Number of Workers	420

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)	6
Employment Relationship (ER)	2
Freedom of Association & Collective Bargaining	1
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	7
Hours Of Work (HOW)	3
Nondiscrimination (ND)	1

Assessment Information

Assessor	Openview- China Shenzhen
Assessment Date	23 Aug 2021
Assessment Purpose	Factory Assessment (In-Person)

ASSESSMENT RESULTS

Compensation (C)

Benchmark ID	C.21.2
Benchmark Details	All benefits shall be calculated correctly
Finding Details	The contribution base of housing provident fund is not in line with legal requirement. The factory contributes to housing provident fund based on CNY 2,200 (USD 339) per month, which is not in line with the legal requirement of contribution based on worker's average monthly wage of previous year. All workers' average monthly wages of previous year were higher than the current contribution base, ranging from CNY 3,000 (USD 463) to CNY 9,000 (USD 1,388).
Recommendation for Immediate Action	Contribute to housing provident fund based on worker's average monthly wage of previous year.
Compliance Classifications	Immediate Action Required
Local Law	Regulations on Management of Housing Provident Fund, Article 17
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 four types of social insurance is not in line with legal requirement. The factory contributes to pension, work-related injury, maternity and unemployment insurances based on CNY 2,200 (USD 339) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of previous year. All workers' average monthly wages of previous year were higher than current contribution base, ranging from CNY 3,000 (USD 463) to CNY 9,000 (USD 1,388).

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.6
Benchmark Details	All wages, including payment for overtime, shall be paid directly and in full within legally defined time limits. When no time limits are defined by law, compensation shall be paid at least once a month.
Finding Details	The factory does not pay workers on time. Wages should be paid within seven days after the end of the pay period, as regulated by local law and defined in the labor contract. The factory has reached a written agreement with the union to actually pay workers within 12 to 14 days after the end of the pay period each month. However, this practice is only applicable to factories that are in difficulties in production and operation and the factory should not take it as a general practice.
Recommendation for Immediate Action	Pay wages within seven days after the end of the pay period, as per legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	The Regulations of the Shenzhen Municipality on the Wage Payment to Employees, Article 11 & 12
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 pays insufficient compensation for the working hours on public holidays. Payroll records from August 2020 to July 2021 indicate that two sampled workers from the embroidery department worked night shift from 19:30 on April 3, 2021 (Saturday) to 5:00 on April 4, 2021 (Tomb-Sweeping Day) and one sampled worker from the embroidery department worked night shift from 19:30 on June 13, 2021 (Sunday) to 5:00 on June 14, 2021 (Dragon Boat Festival). Each night shift included 3.5 overtime hours on public holidays, which were compensated at 200% of the regular pay rate. As per legal requirement, the factory should pay 300% of the regular pay rate for all working hours on public holidays.
Recommendation for Immediate Action	Pay at least 300% of the regular pay rate for the working hours on public holidays, as per legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 44
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 pension insurance to all eligible workers. There was a total of 393 workers in the factory by July 2021, including 55 retired but re-recruited workers. The social insurance payment proof of July 2021 indicates all 338 eligible workers are provided with work-related injury, medical, maternity and unemployment insurances, while only 277 out of 338 eligible workers (82%) are provided with pension insurance. As a supplement, the factory has provided commercial accidental injury insurance to 55 workers over the retirement age, which is valid from April 22, 2021 to April 21, 2022 and has a maximum benefit amount of CNY 100,000 (USD 15,420) per worker.
Recommendation for Immediate Action	Provide pension 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 all eligible workers. There was a total of 393 workers in the factory by July 2021, including 55 retired but re-recruited workers. Housing provident fund payment proof of July 2021 indicates 327 out of 338 eligible workers (97%) are provided with housing provident fund.
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

Employment Relationship (ER)

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 has not hired any disabled workers, which is in violation of legal requirement that states at least 1.5% of the total workforce should be composed of disabled workers. Although the factory contributes to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law, this 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.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 has not reviewed or updated the policies and procedures for two years. The last update was in 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
Freedom of Association & Collective Bargaining	
Benchmark ID	FOA.19.3
Benchmark Details	Where a union exists in the workplace, employers shall make available a copy of the collective bargaining agreement to all workers and other interested parties.

Finding Details	The factory does not provide a copy of the Collective Bargaining Agreement (CBA) to any workers.
Recommendation for Immediate Action	Provide a copy of the CBA to each worker or post the CBA on the notice board and provide relevant training regarding the contents of the CBA to all workers.
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
Benchmark Details	<p>All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all of the following elements: posting evacuation plans; the installation and maintenance of fire alarms; the installation and maintenance of emergency lighting; ensuring aisles/exits are not blocked and that workers are not blocked within their workstations; employee education and training; and evacuation procedures and fire drills.</p>

Finding Details	All evacuation signs are very blurry on the fourth floor of production building A#.
Recommendation for Immediate Action	Re-paint the evacuation signs on the fourth floor of production building A#.
Compliance Classifications	Immediate Action Required
Local Law	Setting Standards for Fire Safety Evacuation Signs, Article 3.1.2
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	The factory has never conducted an inspection for the lightning protection system on the rooftop of the production and dormitory buildings.
Recommendation for Immediate Action	Hire a qualified service provider to conduct an 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 an inspection for the firefighting facilities on an annual basis.
Compliance Classifications	Immediate Action Required
Local Law	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	The factory has never conducted any kind of assessment on occupational disease hazards since the construction of the production buildings were completed in 1999.
Recommendation for Immediate Action	Conduct assessment of current condition of occupational disease hazards and obtain valid reports.
Compliance Classifications	Immediate Action Required
Local Law	Law of Prevention and Control of Occupational Diseases, Article 17, Article 18; Provisions on the Supervision and Administration of Occupational Health at Work Sites, Article 20
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 has not provided post-job occupational health examination to 11 workers with hazardous exposure to chemicals and noise during the past 12 months.

Recommendation for Immediate Action	Provide post-job occupational health examination to all workers with hazardous exposure to chemicals and noise.
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
Benchmark ID	HSE.29
Benchmark Details	Employers shall provide all necessary protection for workers when working at heights, confined spaces, and other high-risk areas.
Finding Details	The factory has not installed fall protection equipment on the stairs against the fire pool on the rooftop of the production and dormitory buildings.
Recommendation for Immediate Action	Install a fall protection equipment on the stairs against the fire pool on the roof top of the production and dormitory buildings.
Compliance Classifications	Immediate Action 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 position or anti-fatigue mats to workers working with standing position.
Recommendation for Immediate Action	Provide adjustable seats with back support to sewing 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 August 23, 2021 indicate around 95% of workers' monthly overtime exceeded 36 hours per month in all reviewed months except February 2021, with the maximum up to 90.5 hours in August 2020.
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 60 hours per week. Factory management sets production targets and the production system at a level that workers need to work 20 overtime hours (two and a half hours per day on five weekdays, seven and a half 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
Benchmark ID	HOW.5
Benchmark Details	Employers shall maintain necessary records identifying all women workers and all workers under the age of 18 entitled to legal protection concerning work hours.
Finding Details	The factory does not keep sufficient records to prove they have provided one hour of paid rest break each day to female workers pregnant over seven months. The time records indicate they are working eight hours per day.
Recommendation for Immediate Action	Keep necessary records to identify female workers entitled to legal protection concerning hours of work.
Compliance Classifications	Immediate Action Required
Local Law	Special Rules on the Labor Protection of Female Employees of Guangdong Province, Article 10.3

Nondiscrimination (ND)

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 application form has the information regarding age, gender and marriage status. And the job descriptions have age and gender requirement for some positions, e.g. security guard requires male with age above 28 years old; front desk clerk requires female with age from 20 to 30 years old; sewing worker requires above 18 years old, etc. It has potential discrimination concerns. However, the factory does not actually refer to that information during recruitment process.
Recommendation for Immediate Action	Remove the information regarding age, gender and marriage status from the job application form and job descriptions.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 12

