

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**23 Sep 2021**



## Factory Information

FLA Affiliates	The Antigua Group, inc
Country	Vietnam
Number of Workers	500

## 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)	2
Employment Relationship (ER)	4
Health, Safety And Environment (HSE)	13
Hours Of Work (HOW)	2

## Assessment Information

Assessor	OneStep Vietnam
Assessment Date	23 Sep 2021
Assessment Purpose	Factory Assessment (Virtual Compliance Check)



## ASSESSMENT RESULTS

### Compensation (C)

Benchmark ID	C.7
Benchmark Details	All payments to workers, including hourly wages, piecework, fringe benefits and other incentives shall be calculated, recorded, and paid accurately.
Finding Details	Based on payroll and attendance records review during past 12 months, interview with factory management and workers; the factory does not provide the correct amount of payment (with extra 100% of hourly rate) during menstruation period (at least 3 days/month, 30 minutes/day) to female workers who receive salaries within the hourly rate system. According to law, the factory needs to provide 30 minutes breaks daily for 3 days, or provide extra payment if the worker does not need to have a break. As current practice of the factory, the compensation of menstruation period is paid for piece rate female workers at 2 hours per month. 40% of female workers work with hourly rate, 60% of female workers work with piece rate.
Recommendation for Immediate Action	Provide menstruation break (at least 3 days/month, 30 minutes/day) for female workers or pay the compensation for this period in cases where female workers do not take the break.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 45/2019/QH14, Article 112
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	1. Based on document review, termination records, annual leave tracking record and interview with factory management; it is noted that the factory does not calculate accurately the annual leave balance for resigned workers. For instance, worker A joined on 26th Oct, 2007, resigned on 29th April, 2021; the factory only paid 8 annual leave days instead of 8.33 annual leave days for this worker $[(16/12*4) + 3] = 8.33$ . This worker had 3 days of annual leave balance in 2020. The factory explained that this mistake was from system calculation when rounding down the decimal. 2. The factory deducts 1.5% of Health Insurance from worker's wage who are absent from work due to taking sick leave from and above 14 days in a month. In detail, worker A took sick leave for 15 days in July 2021, the factory deducted 1.5% of Health Insurance (- VND 57,806) from worker's wage in July 2021 payroll.
Recommendation for Immediate Action	1. Calculate annual leave balance correctly and pay sufficiently for all workers. 2. Ensure that who takes leave due to sickness for at least 14 working days in a month in accordance with regulations of law on social insurance is not required to pay insurance contributions and premiums but still receives benefits from health insurance.
Compliance Classifications	Immediate Action Required
Local Law	1. Decree No. 145/2020/ND-CP, Article 66 2. Decision No. 595/QD-BHXH, Article 42

## 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	Based on training records reviews and confirmation from factory management, it is noted that FLA Code is not included to training for supervisors. The factory management explained that they were not aware of this requirement from FLA.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
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 wage scale is developed with two levels of wage increases for all job positions. However, the factory does not have a comprehensive policy/procedure to regulate clearly on how to evaluate the wage level increases (e.g. time, criteria, terms and condition, etc.)
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
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	Based on document review, it is noted that the policy on promotion, demotion and job reassignment are developed in place. However, the policy is simple development. In details: - The promotion policy: there are no clearly criteria, terms and conditions to evaluate the employee's performance to be promoted; - The job-reassignment policy: it is based on the Vietnam Labor Law in 2012 which was expired in Jan 2021; Remark: this policy is issued in 2018.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
Benchmark ID	ER.3.1
Benchmark Details	Employers shall provide an orientation to new employees at the time of hiring, which includes explanations of the employers' rules, compensation package and policies for human resources, grievance systems, industrial relations, including respect of the right to freedom of association, workers' rights and responsibilities, FLA Code of Conduct, health and safety, and environmental protection.
Finding Details	The orientation training includes some general legal information on working hours, compensation, termination, health & safety and workplace rules. However, not all FLA Code Elements are included in the orientation training such as harassment and abuse, or freedom of association.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A

## Health, Safety And Environment (HSE)



Benchmark ID	HSE.6.2
Benchmark Details	A sufficient number of workers shall be trained in first aid and firefighting techniques. Training shall be upon hire and with periodic refresher training.
Finding Details	1. The factory appoints a fire brigade with 30 members including one captain and one vice-captain instead of at least two vice-captains as legally required. 2. The factory does not conduct the first aid training for all workers on an annual basis. The latest training was conducted on September 8, 2020. 3. Based on training records, payroll and attendance records review during past 12 months, interview with factory management and workers; it is noted that the training records of the factory are not reliable and consistent with actual working time of workers. For instance: - Worker A: piece rate salary. The training record of Group 6 on 3rd Oct, 2020 (8 hours). However, this worker still has productivity output in the same day. - Worker B: piece rate salary. The training record of First Aid on 5th Oct, 2020 (8 hours). However, this worker still has productivity output in the same day Due to this inconsistency, the training records of the factory are not reliable for reference during the assessment time.
Recommendation for Immediate Action	1. Ensure the fire brigade's organization to meet the legal requirement 2. Provide first aid training for all workers on time as legally required. 3. The factory is advised to ensure the training records are matched with the actual practice of worker's working time. The training courses are provided to all required workers as legally required.
Compliance Classifications	Immediate Action Required
Local Law	1. Circular No. 149/2020/TT-BCA, Article 31 2. Decree No. 44/2016/ND-CP, Article 18 and 20 3. Decree No. 140/2018/ND-CP, Article 1, Clause 5
Benchmark ID	HSE.5.3
Benchmark Details	Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually.



Finding Details	Two latest evacuation drills are conducted on June 20, 2020 (with fire police) and December 26, 2020 (internal). Therefore, the factory does not: a) Practice fire drill according to fire prevention plan (i.e. fire drill with fire police) during the past 12 months as legally required. b) Conduct fire drill at least annually as required by FLA.
Recommendation for Immediate Action	Conduct fire drill according to fire prevention plan (fire drill with fire police) annually.
Compliance Classifications	Immediate Action Required
Local Law	Circular No. 149/2020/TT-BCA, Article 10
Benchmark ID	HSE.5.1
Benchmark Details	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.
Finding Details	One main exit aisle at automatic sewing section is only marked on one side instead of both sides leading to the emergency exit door.
Recommendation for Immediate Action	Ensure that all emergency exits are clearly marked.
Compliance Classifications	Immediate Action Required
Local Law	National Standard TCVN 2622:1995, Article 7.5
Benchmark ID	HSE.5.1.4
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following: ensuring aisles/exits are not blocked and that workers are not blocked within their workstations

Finding Details	1) One emergency exit is partially obstructed by materials at the cutting area. 2) At least two emergency call points (fire alarm buttons) are obstructed by materials and tubs at the cutting section and kitchen area.
Recommendation for Immediate Action	1) Keep emergency exits free from any obstructions all the time. 2) The factory is advised that emergency call points (fire alarm buttons) shall be kept free from any obstructions.
Compliance Classifications	Immediate Action Required
Local Law	1) Vietnam Building Code No. QCVN 06:2021/BXD, Article 3 2) National Standard TCVN 3890:2009, Article 6
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	There are no hand drying facilities or tissues provided at the toilets.
Recommendation for Immediate Action	The factory is advised to provide tissue or hand drying facilities at the toilets.
Compliance Classifications	Immediate Action Required
Local Law	N/A
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	1. Loading limit of the shelters is posted at the warehouse No. 1 and No. 2 to indicate the maximum working load. 2. No fence equipped to prevent the falling of the gas cylinders in the gas storage at the canteen.

Recommendation for Immediate Action	1. Post loading limit for each shelter. 2. Provide fence/chain for compressed gas cylinders storage to prevent the falling.
Compliance Classifications	Immediate Action Required
Local Law	1. N/A 2. National standard TCVN 6304:1997, Article 5
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 mezzanine of sewing section has an area of around 520 meters and used to store sewing machines. However, there are 5 instead of at least 7 fire extinguishers equipped in this area as legally required. 2. One fire extinguisher is obstructed by industrial waste at the industrial waste storage. 3. All (five) fire extinguishers are not inspected visually on a monthly basis due to lack of necessary monitoring. The latest inspection was conducted in April 2021. 4. The valuation of design on fire prevention and fighting of the factory was approved in 2016. According to the valuation, the factory shall install sprinkler system. However, the automatic fire fighting system (sprinkler system) has not been installed and the factory has not obtained the fire safety acceptance. 5. One first aid kit is obstructed by materials at the cutting area.
Recommendation for Immediate Action	1. Equip fire-extinguishers sufficiently. 2. Keep fire extinguisher free from any obstructions. 3. Inspect fire extinguishers monthly. 4. The factory is advised to: a) Ensure that the automatic fire fighting system to be installed according to the valuated fire safety design. b) Ensure the fire-fighting system shall be inspected and accepted by the Fire Department to obtain the fire safety acceptance. 5. Keep first aid kits free from any obstructions.
Compliance Classifications	Immediate Action Required

Local Law	1. National Standard TCVN 3890:2009, Article 5 2. National Standard TCVN 7435 - 1:2004, Article 5 3. National Standard TCVN 7435 - 2:2004, Article 4 4. Decree 136/2020/ND-CP, Article 14 and 15 5. Circular 19/2016/TT-BYT, Article 6.
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 not conducted the legal inspection of the air distribution system (from the compressor tanks) as legally required.
Recommendation for Immediate Action	Ensure that air distribution system (from the compressor tanks) is inspected and certified as legally required.
Compliance Classifications	Immediate Action Required
Local Law	Decree No. 44/2016/ ND-CP, Article 16 and Circular No. 36/2019/TT-BLDTBXH, Article 2
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.

Finding Details	<p>1. The factory does not conduct fire safety assessment in the facility. 2. The factory has conducted a workplace risk assessment. However, a) Risk assessment does not include some areas/sections, such as: embroidering section, waste water treatment plant, waste storage, parking lot area. b) The factory does not identify the deadline, in-charge person, verification for the improvements to reduce or eliminate the risks. 3. The factory does not provide occupational diseases health check for employees who work in conditions with hazards of occupational diseases defined in occupational health and safety record. 4. The latest working condition evaluation (conducted on October 22, 2020) did not include ergonomic factor assessment for heavy and hazardous positions as legally required. 5. Two (2) used containers containing paint are used to contain cooling water, instead of being stored in the hazardous waste storage. 6. The factory has installed separation screen for each table in the canteen. However, employees are separated into group of two persons instead of individually. Besides, the distance between individual is less than 2 meters.</p>
Recommendation for Immediate Action	<p>1. The factory is advised to make the fire risk assessment. 2. The factory is advised to identify all hazards and risks at all workplaces/areas and persons to control risks; identify the deadline, in-charge person, verification for the improvements to reduce or eliminate the risk. 3. The factory is advised that workers working in conditions with the hazards of occupational diseases shall be provided a health check every 6 months. 4. The factory is advised that working condition evaluation shall carry out for all harmful factors in all areas potentially affecting the employee. 5. The factory is advised to ensure all hazardous wastes to be classified, labelled properly and stored in the designated area. 6. The factory is advised to practice social distancing measures e.g. install separation screen and keep the distance at least 2 meters.</p>
Compliance Classifications	Immediate Action Required
Local Law	<p>1. N/A 2. Circular No. 07/2016/TT-BLDTBXH, Article 3 – 5; Law No. 84/2015/QH13, Article 77 3. Law No. 84/2015/QH13, Article 21 4. Decree No. 44/2016/ND-CP, Article 35 5. Circular No. 36/2015/TT-BTNMT, Art. 6 6. N/A</p>
Benchmark ID	HSE.5.4

Benchmark Details	The emergency evacuation plan (EEP) includes procedures for notifying local community authorities in case of accidental discharge or release of chemical/waste products or any other environmental emergency.
Finding Details	The factory has not conducted chemical spill response drill practice during the past 12 months according to the company's procedure. The latest drill practice was conducted in August 2020.
Recommendation for Immediate Action	The factory is advised to conduct chemical spill response drill annually according to the company's procedure.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 06/2007/QH12, Article 37
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 orientation training for new employee in around one (1) hour instead of at least 16 hours. Besides, the orientation training does not include the first aid skill training as legally required.
Recommendation for Immediate Action	The factory is advised to provide OSH in sufficient training hours including first aid training.
Compliance Classifications	Immediate Action Required
Local Law	Decree No. 44/2016/ ND-CP, Article 19 and 21
Benchmark ID	HSE.14.2
Benchmark Details	Workers shall receive training in the proper use and safe operation of machinery, equipment and tools they use.

Finding Details	The factory does not provide occupational, health and safety (OSH) training for two workers working at height over 2 meters, which is required by law. These workers defined as group 3 in law.
Recommendation for Immediate Action	Provide required OSH training for designated employees.
Compliance Classifications	Immediate Action Required
Local Law	Decree No. 140/2018/ND-CP, Article 1, Clause 5 and Circular No. 06/2020/TT-BLDTBXH
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	Approximately 10% of provided chairs at the sewing section do not have back-support. They are also not adjustable to fit with worker's working position.
Recommendation for Immediate Action	Provide adjustable chairs with back supports for all sewing section workers and take proactive steps to reduce repetitive-motion stress or injuries e.g. providing breaks.
Compliance Classifications	Immediate Action Required
Local Law	N/A

## Hours Of Work (HOW)

Benchmark ID	HOW.10.1
Benchmark Details	Employers shall provide workers with all official public holidays as required under national laws, regulations and procedures.



Finding Details	Based on document review, termination records and interview with factory management; the factory did not pay the payment of public holiday (Hung King's death anniversary) on 21st April, 2021 for resigned workers. For instance, the factory issued the terminated decision on 29th April, 2021 for worker A, however, there was no payment of public holiday for this worker in April 2021. Factory explained that this worker took unpaid leave many days in Aprils, hence, the factory did not count public holiday.
Recommendation for Immediate Action	Provide payment of public holiday sufficiently for resigned workers as legally required.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 45/2019/QH14, Article 112
Benchmark ID	HOW.21
Benchmark Details	Other than in exceptional circumstances, the total weekly work hours (regular work hours plus overtime including any alternative shifts such as 4x4 or 3x3) shall not exceed 60 hours per week.
Finding Details	Based on payroll and attendance records review during past 12 months, interview with factory management and workers; 1. There are approximately 153 workers in July 2021 and 26 workers in August 2021 who work more than 40 overtime hours/month which are excessive than limitation of monthly overtime as legally required. The maximum overtime hours are 67.49 hours/month. 2. There are approximately 4% of total workforce work more than 60 hours/week (including regular + overtime hours) which is excessive the weekly hours as FLA Benchmark. The excessive weekly hours are happened in July & August 2021, from one to three weeks/month.
Recommendation for Immediate Action	1.Ensure that the number of overtime working hours of the employees do not exceed 40 hours in a month as legally required. 2. Ensure that weekly working hours is not more than 60 hours/week as required by FLA Benchmarks.
Compliance Classifications	Immediate Action Required

Local Law

Law No. 45/2019/QH14, Article 107

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