

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**11 Oct 2021**



## Factory Information

FLA Affiliates	Amer Sports
Country	Vietnam
Number of Workers	1949

## 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

Child Labor (CL)	1
Compensation (C)	5
Employment Relationship (ER)	6
Forced Labor (F)	1
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	13
Hours Of Work (HOW)	2
Nondiscrimination (ND)	1

## Assessment Information

Assessor	OneStep Viet Co., Limited
Assessment Date	11 Oct 2021
Assessment Purpose	Factory Assessment (Virtual Compliance Check)

## ASSESSMENT RESULTS

### Child Labor (CL)

Benchmark ID	CL.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning the prohibition of child labor.
Finding Details	The child labor policy and recruitment procedure state that the factory will not employ workers under the age of 18. Given the legal working age is 15, this practice discriminates against potential workers between the ages of 15 and 18. Remark: the factory does not employ anyone under the age of 18.
Recommendation for Immediate Action	Do not prohibit the hiring of workers between the ages of 15 and 18.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Law 2019, Article 143

### 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	<p>1) Based on payroll and attendance record reviews during the past 12 months, interviews with factory management and workers, the factory does not contribute mandatory insurance for new workers who sign labor contracts after the 17th of the month. The factory contributes to the Mandatory Insurance in the following month instead. For instance, worker A joined on 17th August 2021 and worked 13 working days, however, the factory did not contribute Mandatory Insurance for this worker in August 2021. 2) Based on document reviews and interviews with factory management and workers, the factory receives worker sick leave documents from team leaders during the first five working days of the month. After seven to ten days, the factory sends these sick leave documents to the local Social Insurance Department to get the sick leave payment for the workers. By this practice, workers who have sick leave documents after the first five working days of the month have to wait until the following month to provide these documents HR. As a result, workers receive late sick leave payment.</p>
Recommendation for Immediate Action	<p>1) Contribute Mandatory Insurance for employees who meet legal requirements. 2) Provide sick leave documentation to the social insurance agency within 10 days after the date an employee fully satisfies the conditions for enjoying the convalescence and health rehabilitation allowance after sickness or maternity leave.</p>
Compliance Classifications	Immediate Action Required
Local Law	<p>1) Law No. 58/2014/QH13, Article 85 2) Law No. 58/2014/QH13, Article 103</p>
Benchmark ID	C.9.3
Benchmark Details	<p>Employees shall be compensated for overtime hours at such premium rate as is legally required in the producing country</p>

Finding Details	1) The factory conducted an Occupational Safety and Health training (OSH - defined as Group 4) for all employees in September 2021. However, the factory did not pay the hourly rate payment for the training time to workers who receive a piece rate salary. For instance, worker A joined the OSH training class on 6th – 7th Sept 2021 but did not receive their hourly rate payment for these two days of training. 2) There is a 5-10 minute pre-work meeting with team leader that starts before the official working time (07:30). The factory does not count this pre-work time as overtime payment for all workers. 3) One canteen staff cooks dinner for embroidery workers. However, this staff is not paid for this period. The official working time of canteen staff is from 7:00 to 15:00. The dinner time is from 18:00 – 18:30
Recommendation for Immediate Action	1) Correctly calculate and pay piece rate workers for training hours. Ensure that workers who took training and were not paid are paid as legally required. 2) Calculate overtime payment properly for all workers. 3) Ensure that canteen staff working hours are correctly records and payment is calculated correctly.
Compliance Classifications	Immediate Action Required
Local Law	1) Decree 145/2020/ND-CP, Article 58 2) Decree 145/2020/ND-CP, Article 55; Vietnam Labor Law 2019, Article 107 3) Vietnam Labor Law 2019, Article 17 and 95
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	<p>1) Based on document reviews and interviews with factory management, it is noted that the factory does not contribute Health Insurance and Social Insurance as legal requirement for all (four) foreign experts. The factory explained that they would contribute Social and Health Insurance for these experts from October 2021.</p> <p>2) Based on payroll and attendance record reviewed from the past 12 months, as well as interviews with factory management and workers, it is noted that the factory has not paid the additional payment of the compulsory social insurance, compulsory health insurance, unemployment insurance premiums to one worker in September 2021. This is a female worker who has received the pension payment from the local Social Insurance Department, and does not need to contribute to mandatory insurance. This worker is not covered by compulsory social insurance, compulsory health insurance or unemployment insurance premiums, therefore, the factory has to provide the mentioned amount of each to this worker, as legally required.</p>
Recommendation for Immediate Action	<p>1) Contribute the Health Insurance and Social Insurance for foreign employees as legally required. 2) Provide sufficient benefits prescribed by law and the employment contract for the worker and any future workers who receive retirement pension under the Law on Social Insurance.</p>
Compliance Classifications	Immediate Action Required
Local Law	<p>1) Decree 143/2018/ND-CP, Article 2 2) Vietnam Labor Law 2019, Article 137</p>
Benchmark ID	C.17
Benchmark Details	Employers shall ensure that all legally required payroll documents, journals and reports are available, complete, accurate and up-to date.

Finding Details	1) Based on canteen and the security supplier interview and document review, there is no specific time-in/out recorded for these workers. The factory outsources the hiring of security guards and canteen staffs. 2) One canteen staff cooks dinner for embroidery workers, whose shift is 14:00-22:00. However, this worker's time-in and out is not recorded. The canteen staff's official working time is from 7:00 to 15:00 but the embroidery workers eat dinner from 18:00 – 18:30.
Recommendation for Immediate Action	1) Record working hours accurately, including for factory workers and in-house service providers. 2) If workers work outside of their normal working hours, ensure that these hours are recorded and workers are compensated appropriately.
Compliance Classifications	Immediate Action Required
Local Law	1) Vietnam Labor Law 2019, Article 17 and 95 2) Vietnam Labor Law 2019, Article 17 and 95
Benchmark ID	C.18.1
Benchmark Details	Employers shall not use hidden or multiple payroll records in order to hide overtime, to falsely demonstrate hourly wages, or for any other fraudulent reason.
Finding Details	According sick leave documents between team leader and the HR team, work was conducted on two Sundays (weekly rest days - 6th June 2021 and 1st August 2021) during the past 12 months. However, there was no Sunday work shown on the payroll and attendance records for these dates. The factory explained that workers did not work on Sunday and this issue was clerical error.
Recommendation for Immediate Action	Ensure that sick leave documents between team leader and HR teams match the actual working time.
Compliance Classifications	Immediate Action Required
Local Law	

## Employment Relationship (ER)



Benchmark ID	ER.1.2
Benchmark Details	Employers shall assign responsibility for the administration of human resources to a clearly defined and adequately qualified staff member or staff members and ensure workers at all levels receive communication and training about existing policies and procedures or any revisions.
Finding Details	The factory does not provide occupational safety and health (OSH) training (defined as Group 3) to all canteen staffs of food service provider who are directly cooking and processing foods are not provided. This training is legally required.
Recommendation for Immediate Action	The required OSH training shall be provided 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	ER.18.1
Benchmark Details	Employers shall have written disciplinary rules, procedures and practices that embody a system of progressive discipline (e.g. a system of maintaining discipline through the application of escalating disciplinary action moving from verbal warnings to written warnings to suspension and finally to termination).
Finding Details	The factory has not reviewed and updated the internal workplace democracy regulation as legally required. The factory developed the regulation on December 6, 2019. It does not include the following: - No update on the composition and quantity of participants in dialogue and quantity thereof as Article 38 Decree 145/2020/ND-CP; - The regulation is copied from another factory so the factory name is not on the regulation.
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	Decree 145/2020-/ND-CP, Article 37, 38
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 a policy and/or procedure for conducting performance reviews for all production workers 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 follow all local legal requirements. Remark: as current practice, the factory has the policy and procedure to conduct the performance review for the staffs and supervisors only. Workers in the following job function are not considered staff: mechanic, maintenance, sewing, cutting, packing, finishing, and quality control.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 a comprehensive, written policy and procedure for promotion as per standard requirement.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 post the FLA code of conduct.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
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 post the company affiliate's code of conduct. The english version of the company affiliate's compliance benchmarks is posted at the facility.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

### Forced Labor (F)

Benchmark ID	F.2.2
Benchmark Details	Employment terms shall be those to which the worker has voluntarily agreed, in as far as those terms do not fall below provisions of national laws, freely negotiated and valid collective bargaining agreements, or the FLA Workplace Code.
Finding Details	The labor contract (Article 2 - working hours) for all workers states: workers shall work 48 hours/week and not work more than 16 hours of overtime per week and not work overtime more than 14 hours/week for 4 consecutive days. This statement implies that working hours can exceed 60 hours/week. Remark: This finding is found in the labor contract only. There is no other form (written consent) that workers' agree to.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

### Freedom Of Association And Collective Bargaining (FOA)

Benchmark ID	FOA.10
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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: Vietnam has not ratified ILO Convention 87. Under Vietnamese law, all unions are required to affiliate with the single trade union, the Vietnam General Confederation of Labor (VGCL), which is affiliated with the Communist Party. With respect to such union monopolies, the ILO Committee on Freedom of Association has stated that "the rights of workers to establish organizations of their own choosing implies... the effective possibility of forming... [trade unions] independent both of those which exist already and of any political party." Vietnam's legal framework is therefore not compatible with the ILO Principles on Freedom of Association and, as such, all factories in Vietnam fail to comply with the FLA Code standard on Freedom of Association.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

## Health, Safety And Environment (HSE)

Benchmark ID	HSE.5.3
Benchmark Details	Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually.
Finding Details	There are 20 workers in the embroidery section who work in two shifts: 6:00 – 14:00 and 14:00 – 22:00. The factory has not conducted a night time fire drill during the last 12 months. Although this is not a legal requirement, it is important for a fire drill to take place at night so workers are familiar with the nature of a night time fire evacuation in the case of an emergency.

Recommendation for Immediate Action	Conduct evacuation drills for all shifts and workers.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.5.1.2
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following elements: installation and maintenance of fire alarms;
Finding Details	1) There is no automatic fire alarm system installed on the ground floor of the canteen (around 1,050 m2 and 4,000 m3). This area is used for sewing machine and carton box storage. 2) The fire alarm in the corridor of the packing area is non-functional. Note that the factory fixed this issue on the first day of the assessment.
Recommendation for Immediate Action	1) Install an automatic fire alarm system at the machine and carton box storage area. 2) Regularly maintain fire alarm system to ensure functionality.
Compliance Classifications	Immediate Action Required
Local Law	National Standard TCVN 3890:2009, Article 6
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	A conveyor and truck were obstructing one exit door at workshop 1-2.
Recommendation for Immediate Action	Keep emergency exits free from any obstructions.

Compliance Classifications	Immediate Action Required
Local Law	Vietnam Building Code No. QCVN 06:2021/BXD, Article 3
Benchmark ID	HSE.9.1
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	There is no spill response equipment (e.g. materials to contain and clean a spill) equipped at the chemical warehouse.
Recommendation for Immediate Action	Equip proper spill response equipment at chemical storage areas.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.2
Benchmark Details	All documents required to be available to workers and management by applicable laws (e.g. health and safety policies, MSDS, environmental emergency plans) shall be made available in the prescribed manner and in the local language or language spoken by the workers, if different from the local language.

Finding Details	1) The fire fighting and prevention plan was approved on December 21, 2017. At the assessment time, the purpose of the ground floor of the canteen (around 1,050 m <sup>2</sup> and 4,000 m <sup>3</sup> ) was for a parking area. This area is now used for sewing machine and carton box storage. However, the fire prevention plan has not been updated. 2) The factory conducted the Working Condition Evaluation in January 2021. However, this evaluation did not include an ergonomic assessment for heavy and hazardous jobs as legally required. 3) The latest environmental evaluation report was conducted on July 2021. However, the ambient air assessment was sampled at one position instead of four positions as required by an approved environmental protection commitment. 4) The factory does not create the document on labor environment sanitation for harmful factors and occupational disease prevention and control as legally required.
Recommendation for Immediate Action	1) Revise the fire fighting and prevention plan. 2) Conduct Working Condition Evaluation with ergonomic assessment for heavy and hazardous jobs as legally required. 3) Conduct environmental evaluation as required in the approved Environmental protection commitment. 4) Make documents on labor environment sanitation for harmful factors and occupational disease prevention and control as legally required.
Compliance Classifications	Immediate Action Required
Local Law	1) Decree No. 136/2020/ND-CP, Article 19 2) Decree No. 44/2016/ND-CP, Article 35 3) Decree No. 40/2019/ND-CP, Article 1, Point 13 4) Decree No. 39/2016/ND-CP, Article 5
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	None of the waste bins in the toilet areas have a cover to ensure sanitation.
Recommendation for Immediate Action	Cover waste bins to ensure sanitation.



Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	There is no safety mechanism installed for all (five) laser cutting machines in the welding rooms. During the assessment, workers were seen putting their hands into the machines while they are working.
Recommendation for Immediate Action	Install safety mechanisms for all laser cutting machines. Ensure that workers do not directly contact the machine while it is working.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 84/2015/QH13, 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 does not check fire extinguishers every six months. The latest maintenance was conducted on December 31, 2020.
Recommendation for Immediate Action	Check fire extinguishers every six months as legally required.
Compliance Classifications	Immediate Action Required
Local Law	National Standard TCVN 7435 - 2:2004, Article 4

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 a legally required inspection for the air distribution system (from the compressor tanks).
Recommendation for Immediate Action	Inspect and certify all necessary equipment.
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	1) Waste water (water with lubricant and oil) is leaking outside the air compressors on the floor of the compressor and surrounding areas. 2) The distance between individuals at the canteen area is less than two meters. Additionally, the factory does not install separation screens in this area.
Recommendation for Immediate Action	1) The wastewater shall be treated properly before being discharged to the environment. 2) Apply the social distancing measures e.g. install separation screen and keep the distance at least 2 meters.
Compliance Classifications	Immediate Action Required
Local Law	1) Law No. 55/2014/QH13, Article 7 2) N/A

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 does not post emergency response procedures at the chemical storage.
Recommendation for Immediate Action	Post emergency response procedures at the chemical storage.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.30.2
Benchmark Details	The health, safety, and environmental policies shall contain the framework for a comprehensive health, safety, and environmental management system within which the following are clear and regularly tested and reviewed; procedures for reporting death, injury, illness and other health and safety issues (for instance, near-miss accidents) and environmental emergencies
Finding Details	The factory submits the occupational accident report to the Department of Labor, Invalids and Social Affairs on an annual basis instead of every six months. The last submission was on January 6, 2021.
Recommendation for Immediate Action	The general report on the reality of occupational accidents shall be reported to the Department of Labor – Invalids and Social Affairs every six months.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 84/2015/QH13, Article 36.
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 chairs with back support for workers who have to sit during their working time e.g. sewing workers and QC workers. In addition, the factory does not provide anti-fatigue mats for workers who have to stand during their working time e.g. ironing workers at production workshop 1 – 2.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A

## 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	The factory provides a 60 minute break with pay to female workers who have children under one-year-old and who work in harmful and hazardous job positions. However, these workers should receive this break with full pay and work one less working hour per day with full pay (total 2 hours/day) as legally required. The law took effect February 2021.
Recommendation for Immediate Action	Provide a paid 60 minute break and reduce one working hour per day (total 2 hours/day) for workers who have children under one-year-old and work in harmful and hazardous job positions.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Law 2019, Article 137; Decree 145/2020/ND – CP, Article 80

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 record reviews during past 12 months, approximately 60% of the workforce worked up to 44 overtime hours in August 2021, which exceeds the legal limit of no more than 40 overtime hours/month.
Recommendation for Immediate Action	The monthly overtime hours shall not exceed 40 hours as legally required.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Law 2012, Article 106 (expired on January 1, 2021) and Vietnam Labor Law 2019, Article 107

## 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 has around 1,200 female employees. However, the factory does not have a designated breast feeding room for lactating employees.
Recommendation for Immediate Action	Provide dedicated rooms for milking and breast milk storage.

Compliance Classifications	Immediate Action Required
Local Law	Decree No. 145/2020/ND-CP, Article 80

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