



INDEPENDENT EXTERNAL ASSESSMENT REPORT

COMPANY: Hugo Boss AG
The s. Oliver Group
COUNTRY: China
PRODUCT: Apparel
NUMBER OF WORKERS: 315
ASSESSMENT DATE: 12/28/2016
ASSESSMENT MONITOR: FLA China

FLA Comment: s.Oliver stopped their manufacturing cooperation with the factory in April 2019. The relationship was terminated on the basis of different business interests. Besides the FLA SCI assessment in September 2016, the s.Oliver Sustainability audit team audited the factory in June 2017, and has been in close contact with the factory management in order to improve the root causes of these findings, to work together on the CAPs, and to improve the factory's policies and systems. At the time of exit, s.Oliver was 0.3% of the factory's production capacity, therefore its exit did not lead to risks of retrenchment.

Summary of Code Violations

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.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

Findings and Action Plans

FINDING NO.1

TRAINING (MACRO)

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. The factory does not provide adequate or ongoing training for any of the Employment Functions; this includes orientation training, and supervisor training.
2. The orientation training does not cover the following Employment Functions: Recruitment, Hiring & Personnel Development, Industrial Relations, Grievance System, Termination & Retrenchment, and Environmental Protection.
3. Workers do not receive written documentation that includes any of the issues covered during orientation.
4. The factory does not train any of the supervisors on national law, regulation, or the FLA Workplace Code in any of the Employment Functions.
5. The factory does not update the training module on a regular basis for any of Employment Functions, except for the Health & Safety training.
6. The factory does not provide any ongoing training to regular workers and managerial staff on updated factory policies, procedures, or legal requirements.
7. The factory does not provide any ongoing training to workers to raise or broaden their skills for career advancement.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.15, ER.17.1, ER.17.3, ER.27, and ER.28)

FINDING NO.3

REVIEW PROCESS (MACRO)

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. The factory has not developed policies and procedures on the review process to ensure updates are made according to local law and FLA Workplace Code requirements. As a result, they have not conducted internal reviews for the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations, Workplace Conduct, Grievance System, Environmental Protection, and Health & Safety.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3, ER.29.1.1, ER.30.2, and ER 31.2)

FINDING NO.4

RECRUITMENT, HIRING AND PERSONNEL DEVELOPMENT

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. The factory does have policies and procedures on Recruitment & Hiring, however there are no written policies and procedures regulating the Personnel Development.
2. The training policies and procedures do not include steps to encourage ongoing training to raise or broaden skills for career advancement.
3. There are no policies and procedures for performance reviews.
4. The factory does not conduct performance reviews for any of the workers.
5. The factory does not hire disabled workers, which is a violation of local legal requirements that state that at least 1.5% of the total workforce should be comprised of disabled workers. There are 329 workers in the factory; therefore, there should be at least five disabled workers. Furthermore, the factory does not contribute to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law.

Local Law or Code Requirement

The Regulations of Employment for Disability Person, Article 8; FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.3, ER. 28.1, and ER.29.1; Nondiscrimination Benchmarks ND.1, and ND.2.1)

FINDING NO.5

COMPENSATION

FINDING TYPE: Immediate Action Required

Finding Explanation

1. The factory does not fully provide workers with the five types of legally mandated social insurance, for example: (a) In July 2016, the factory only provided all five types of legally mandated social insurances to 186 out of 329 (57%) workers; and (b) The factory does not provide social insurance based on workers' actual wages. For 90% workers whose monthly wages range from CNY 2421.12 (USD 361.36) to CNY 6812.41 (USD 1016.78), the social insurance was paid based on the local minimum contribution base of CNY 2419 (USD 361.04), rather than their actual monthly wages.
2. The factory does not contribute to the legally required Housing Provident Fund.
3. The factory calculates paid annual leave on the number of years workers have been employed at the factory rather than by their cumulative years of working experience prior to and including the factory, as required by law. The factory currently gives workers five or ten days of annual leave; however, approximately 30% of workers are eligible for more than the five to ten days of factory-provided annual leave based on their cumulative working experience, about half of whom are eligible for 15 days of annual leave.

4. The factory does not pay the legally defined premium rates for overtime hours to any of the piece-rated workers. The production workers (256 out of 329) are paid with piece-rated wage, while non-production workers (73 out of 329) are paid with monthly-rated wages. The overtime wages for monthly-rated workers are paid according to legal law requirements. However, the factory has only paid 100% of the normal wage to all piece-rated workers for weekday and weekend overtime hours in past year (from July August 2015 to July 2016), which is less than the legally required 150% of the normal wage for weekday overtime and 200% of the normal wage for weekend overtime respectively.
5. The factory does not pay the normal wage to any of the piece-rated workers for statutory holidays, as per the legal requirement (8-hours at 100% of the normal wage).

Local Law or Code Requirement

The PRC Labor Law, Articles 44, 51, 72 and 73; The Housing Fund Management Regulation, Articles 15 and 17; The Worker Paid Annual Leave Regulation, Article 2; FLA Workplace Code (Employment Relationship Benchmark ER.22.1; Hours of Work Benchmarks HOW.11, and HOW.14; Compensation Benchmarks C.1, C.6, and C.7)

Recommendations for Immediate Action

1. Provide legally mandated insurance to all workers based on their actual monthly wage.
2. Provide annual leave to all workers based on their cumulative working experience, as stated by local law.
3. Pay the legally required premium wages to all piece-rated workers.
4. Pay the normal wage to all piece-rated workers for statutory holidays.

FINDING NO.6

COMMUNICATION & WORKER INVOLVEMENT (MACRO)

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. The factory does not formally communicate its policies and procedures to the general workforce and management staff for any of the Employment Functions.
2. The methods that the factory uses to communicate are not effective or comprehensive; this includes an insufficient introduction to factory rules to workers during orientation training and an incomplete posting of relevant policies and procedures on site.
3. All interviewed supervisors and general workers roughly understand some policies and procedure, however, they are not fully aware of all policies and procedures, such as the hiring policy, compensation package and legal benefits, grievance channel and tracking system, disciplinary rules and appeal procedures. The factory has not planned to do any follow-ups to communicate updates and legal revisions.
4. The worker integration component is missing for all Employment Functions. The factory has not established procedures to receive worker input or feedback on the creation, implementation, and revision of its policies and procedures. Workers are neither systematically integrated nor consulted in the decision-making processes. The factory never arranges consultation meetings with workers or union representative before management reaches their final decisions on layoffs.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.1.3, ER.16.1, ER.25.1, ER.25.2, ER.27.3, ER.29, ER.30.2, and ER.32; Compensation Benchmark C.17)

FINDING NO.7

HOURS OF WORK

FINDING TYPE: Immediate Action Required

Finding Explanation

1. The cumulative working hours exceeded the limit of the approval received under the Comprehensive Working Hours System. The factory had obtained the written approval for adopting the Comprehensive Working Hours System from September 2015 to August 2016. The allowable cumulative working hours are 2440 hours during this period. The cumulative working hours for 80% of general workforce (workers in all departments) exceeded 2440 hours, ranging from 2587 to 2925 hours during the same period.
2. The weekly working hours for 80% of the general workforce (workers in all departments) exceeded 60 hours, ranging from 62 to 85 hours per week in the past year (from July 2015 to June 2016).
3. The workers do not receive at least one day off (24 consecutive hours of rest) for every 7-day period. The consecutive working days for 30% of general workforce (workers in all departments) exceed 6 days, ranging from 7 to 12 days in the past year except for February 2016 (when Chinese New Year holidays fell). However, the consecutive working days is voluntary and workers can decline days without repercussion.
4. The factory's production target requires workers to work 58 hours per week (40 regular hours plus 18 overtime hours) on a regular basis.
5. The factory does not completely record working hours for all ten group leads in the sewing workshop. The factory adopted a swiping electronic card to record working hours. However, none of the group leaders in the sewing workshop swipe their electronic card or use an alternative time-keeping system to record their Sunday work.

Local Law or Code Requirement

The PRC Labor Law, Articles 38 and 41; The Instruction on the Implementation of the China Labor Law Article 65; FLA Workplace Code (Employment Relationship Benchmarks ER.2.1, ER.23.2, and ER.23.3; Hours of Work Benchmarks HOW.1.1, HOW.1.3, HOW.2, HOW.8.1, and HOW.8.3)

Recommendations for Immediate Action

1. Ensure the accumulative working hours do not exceed the limit of the Comprehensive Working Hour System approval.
2. Ensure that workers do not work more than 60 hours per week.
3. Ensure that workers receive at least one day off (24 consecutive hours of rest) for every 7-day working period.
4. Ensure that production planning is based on 40 hours of work per week and does not include overtime.
5. Adopt reliable and effective time keeping system to record all working hours.
6. FLA affiliate Company's Sourcing and Social Compliance teams should implement FLA Principles of Fair Labor and Responsible Sourcing and, to help the factory address its excessive hours issue, coordinate on the following topics: how to provide better order forecasts to the factories; possible workshops/consultancy for the factory to improve productivity/quality; clear guidelines on how to extend shipment deadlines in case of contingencies; steps that factory management must follow if overtime is inevitable; and clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks.

FINDING NO.8

INDUSTRIAL RELATIONS

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. The factory has a trade union under the ACFTU (All-China Federation of Trade Unions) that was established in year 2005. However, there are neither records on file that indicate that any elections have been held nor any written operational procedures that pertain to such elections.
2. Factory management automatically enrolls all workers as trade union members without workers' consent. About 90% of the interviewed workers do not know whether they are members of the

trade union or not. Factory management pays the union dues rather than the workers themselves.

3. Instead of being elected by workers directly, the factory management assigns the union representative.
4. 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.

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2, FOA.10, FOA.11, FOA.12, FOA.13 and FOA.14)

FINDING NO.9

WORKPLACE CONDUCT

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. The disciplinary system does not include a third party witness during the imposition of disciplinary action and the appeal process.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.27.4)

FINDING NO.10

ENVIRONMENTAL PROTECTION

FINDING TYPE: Immediate Action Required

Finding Explanation

1. The policies and procedures on Environment Protection are incomplete. There are no procedures to enable workers to raise environmental concerns, report environmental emergencies, or protect workers who allege environmental violations.
2. The factory has not provided secondary containers for the detergent in the cleaning workshop.

Local Law or Code Requirement

The Regulations on the Safety Administration of Dangerous Chemicals Article 20; FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.31.2.4, and ER.31.2.5; Health, Safety and Environment Benchmarks HSE.1 and HSE.9.1)

Recommendations for Immediate Action

1. Provide secondary containers for all chemicals stored in the factory.

FINDING NO.11

HEALTH AND SAFETY

FINDING TYPE: Immediate Action Required

Finding Explanation

1. The factory has not inspected the two cargo lifts, and therefore does not have the safety inspection reports.
2. The factory did not perform the annual inspection and renew the certificate for one out of two cargo lift operators' certificate, which expired on November 9, 2015.
3. The factory did not obtain an occupational disease hazard assessment report before operating in 2003. It has never conducted an assessment of the current conditions of occupational disease hazards, as legally required.
4. The factory has provided personal protective equipment (PPE) and training on PPE to the relevant workers, but they are not properly used by workers during working times. None of the workers in contact with chemicals in the cleaning workshop wear active-carbon masks or rubber gloves during working times.
5. The factory has not provided seated workers with chairs that are adjustable and have backrests, in order to minimize workers' injuries. The factory also does not provide standing workers with anti-fatigue.
6. The factory does not train loading workers on lifting techniques or provide loading workers with lifting belts.
7. The factory does not post any safety labels on the chemical containers in the cleaning workshop.

Local Law or Code Requirement

The Special Appliance Quality Safety Monitoring Regulation Article 28; The Measures for Supervision and Management of the Operating Personnel of Special Equipment Article 22; The PRC Law of Prevention and Control of Occupational Diseases, Articles 17, 20, 22 and 36; The Safety Manufacturing Law, Article 42; The Regulation for Chemical Usage Safety in Work Place, Article 14; FLA Workplace Code (Health, Safety, & Environment Benchmarks HSE.1, HSE.4, HSE.8, HSE.9.1, HSE.14.1, HSE.14.2, HSE.17.1, and HSE.17.2)

Recommendations for Immediate Action

1. Obtain the safety inspection certificate for the cargo lifts in the factory.
2. Perform the annual inspection for cargo lift operator certificate before its expiration date.
3. Arrange for a licensed service provider to conduct an assessment of the current conditions for occupational disease hazards. Review and respond to any imminent hazards.
4. Ensure all workers who are in contact with chemicals wear the proper PPE (active-carbon masks and rubber gloves) during working times.
5. Provide lifting belts to all loading workers and train workers on their proper use.
6. Post safety label on all chemical containers in the factory.

FINDING NO.12

HEALTH AND SAFETY

FINDING TYPE: Immediate Action Required

Finding Explanation

1. The factory has installed a local (isolated) fire alarm system, rather than a centralized fire alarm in the factory area. Furthermore, the factory does not have a backup battery installed for the fire alarm system.

Local Law or Code Requirement

The PRC Fire Prevention Law, Article 16; FLA Workplace Code (Health, Safety and Environment Benchmark HSE.1, and HSE.5.1)

Recommendations for Immediate Action

1. Install a centralized fire alarm and a backup battery for the fire alarm system in factory.