

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

15 Dec 2021



Factory Information

FLA Affiliates	Amer Sports, MEC Mountain Equipment Company
Country	El Salvador
Number of Workers	1215

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)	9
Freedom Of Association And Collective Bargaining (FOA)	1
Harassment Or Abuse (H/A)	1
Health, Safety And Environment (HSE)	4
Hours Of Work (HOW)	1

Assessment Information

Assessor	Francisco Chicas
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Assessment Date	15 Dec 2021
Assessment Purpose	Factory Assessment (Virtual Compliance Check)

ASSESSMENT RESULTS

Compensation (C)

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	Annual payments of advance termination payouts are not included as itemized deductions in the final severance calculation when workers are terminated. This means that the final severance calculation is based on the last working year (or fraction of the year) only, instead of multiplying the total years of service by the last legal minimum wage in force, and then deducting all advance payments of termination payouts previously provided to the workers.
Recommendation for Immediate Action	Calculate payment of termination payouts by multiplying all lengths of service for the last valid legal minimum wage in force, and deducting from the total all in-advance payments of termination payouts provided to the workers in previous years.
Compliance Classifications	Immediate Action Required
Local Law	Labor Code, Art. 58.
Benchmark ID	C.15.1.3
Benchmark Details	Employers shall provide workers a pay statement each pay period and not less frequently than once a month, which shall show total number of hours worked.
Finding Details	Payslips do not include details on: i) the number of hours of work; ii) breakdown of the number of rest days in each pay period, and the corresponding legal payment for those rest days; and, iii) the applicable daily and hourly salary.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Labor Code, Art. 138.

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	1) There are no formal ongoing worker training sessions, in which training material is displayed and detailed explanations of each topic are provided to the workers; instead, the factory conducts short talks with groups of workers on the production floor. 2) Communication efforts (short talks) have not been sufficiently effective to ensure that workers are aware of: i) Legal rules for calculating the legal benefit Christmas Bonus; ii) Rights to Freedom of Association and Collective Bargaining; iii) Termination & Retrenchment; iv) Legally required leaves; and, v) Disciplinary Procedures including the appeal process.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.17.1

Benchmark Details	Employers shall have a clear and transparent system of worker and management communication that enables workers to consult with and provide input to management. This might include suggestion boxes, worker committees, designated spaces for worker meetings, union representatives, and meetings between management and workers' representatives.
Finding Details	The Grievance procedure does not include the option for workers to directly report any issue/concern with managers (including HR) in case they do not wish to follow the escalating procedure that starts with immediate supervisors. Also, it does not include timeframes for resolving grievances at the different stages.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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) Recruitment written policy has not been updated to include the latest legal requirement for hiring one worker with disability for every twenty workers; the policy refers to the previous legal requirement (one worker with disability for every twenty-five workers). In practice, the factory does comply with this new requirement. 2) The Termination policy and procedure do not include: i) clear concepts to distinguish all applicable forms of termination and applicable steps to each of them; ii) criteria to manage terminations without cause. Also, the Retrenchment policy and procedure do not include: i) requirement for developing a retrenchment plan and ways to communicate it to the workers; ii) consultations with workers before making retrenchment decisions; iii) confidential channels for workers to report concerns around legally required payments during retrenchment. 3) Compensation written policy and procedure does not include rules for the calculation of salary and legal benefits. In practice, the assessors did not find issues related to compensation. 4) Leave and Absence written policy has not been updated: it still allows deductions of rest day payments as sanctions to workers; in early November the factory stopped implementing such deductions (which was actually confirmed during records review and worker interviews); however, the policy has not been updated accordingly. 5) Policy and procedure on leaves are missing steps and requirements for providing legal leaves in cases of i) workers facing family issues/responsibilities (including illnesses of relatives); ii) paternity leaves; iii) leaves for women who have faced gender violence to attend legal procedures and/or medical appointments. As a result, workers have not received communication and training on such types of leaves. 6) Termination records reviews do not clearly reflect the termination reasons, for example, some personnel files include settlements that state that the termination was due to a resignation, while the factory's termination letter describes a different type of termination (termination with cause). From a sample review of personnel files of terminated workers, the assessors found that all settlements refer to "resignations" when in some cases the type of termination was different (termination with a cause or without cause). 7) From a review of personnel files of terminated workers, the assessors found that a Notary did not authenticate five termination letters. Even when the termination letters mentioned the presence of a Notary, the Notary's signature and seal were missing in the documents, in breach of the law.

Recommendation for Immediate Action

Compliance Classifications	Sustainable Improvement Required
Local Law	1) Special Law on Inclusion of People with Disabilities, Art. 63. 5) Labor Code, Art. 29 section 6. 7) Notaries Law, Arts 50, 51 and 54.
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	There are no policies and procedures on performance reviews; also, performance reviews are not implemented with production workers (performance reviews are implemented only with supervisors).
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 register employment contracts at the Ministry of Labor as legally required. By law, all employment contracts should be registered within the following eight days after both parties have signed it; but the factory is submitting contracts for registration in January of each year.
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	Labor Code, Art. 18.
Benchmark ID	ER.15.3
Benchmark Details	Employers shall not demand that workers sign any declaration of good health, waivers or releases of other rights as a condition of receiving severance pay or other legal benefits* from the company, and shall not threaten to withhold benefits if workers do not sign.
Finding Details	Terminated workers, regardless of the form of termination, are requested to sign a waiver ("Desistimiento") to refuse their right to initiate legal procedures against the factory in the case of pending amounts due to the workers. As the factory renews contracts every year, and pays workers annual termination payouts, the waivers are signed annually; after worker receives payment of termination payouts
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.10.2
Benchmark Details	Employers shall not renew contracts for multiple successive short-terms in lieu of providing regular employment.
Finding Details	Annually, the factory provides annual indemnification (in-advance payment of termination payouts) to the workers; under this practice, the factory terminates workers based on the fact that they have received the indemnification and renews their employment contracts annually and on a consecutive basis, which is against FLA's Compliance Benchmarks.
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	Labor Code, Art. 25.
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	Orientation training does not include explanations on voluntary overtime, disciplinary procedures, freedom of association and collective bargaining, harassment and abuse, termination and retrenchment, and environmental protection.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.17.2
Benchmark Details	There shall be a mechanism that allows workers to report harassment and grievances confidentially, including any concerns or problems they may be experiencing around legally owed payments during a retrenchment process.
Finding Details	At the time of the assessment, there was no confidential grievance system available at the factory, as the suggestion boxes were placed at the sight of workers on the production floor. The factory partially addressed this issue during the onsite assessment, as the suggestion boxes were placed at the female restrooms; and the factory committed to acquiring new suggestion boxes to instal in the male restrooms.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Freedom Of Association And Collective Bargaining (FOA)

Benchmark ID	FOA.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning freedom of association and collective bargaining. national laws, rules, and procedures protecting the rights of workers to organize and bargain collectively. Where local laws and FLA standards differ, the employer is expected to follow the highest applicable standard.
Finding Details	Freedom of Association policy and procedure does not include commitments to i) avoiding discrimination and retaliation, and steps for workers to report any form of discrimination or retaliation; ii) avoiding interference on unions' activities, administration, and union leaders elections; iii) process to investigate allegations of violations to freedom of association and collective bargaining.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Harassment Or Abuse (H/A)

Benchmark ID	H/A.5
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Benchmark Details	Employers shall not use any form of verbal violence, including screaming, yelling, or the use of threatening, demeaning, or insulting language, as a means to maintain labor discipline.
Finding Details	The assessors found that one Production Manager of Plant 2 commits verbal abuse against workers by expressing rude and, in a few cases, offensive words to the workers.
Recommendation for Immediate Action	Ensure that workers at sewing are not subjected to any form of verbal abuse by the Plant Manager.
Compliance Classifications	Immediate Action Required
Local Law	Labor Code, Article 62 section e).

Health, Safety And Environment (HSE)

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	The assessors found one chemical container (quaternary ammonium) at the mechanic's workshop of Plant 01 which is missing a label as legally required. The factory addressed this issue during the onsite assessment by adding the label to the chemical container.
Recommendation for Immediate Action	Add the label to the container of quaternary ammonium that is being used at the mechanic's workshop of Plant 01.
Compliance Classifications	Immediate Action Required
Local Law	Regulations to the General Law on Occupational Risks Prevention at Workplace, Art. 196 section g)

Benchmark ID	HSE.13
Benchmark Details	All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and to prevent or minimize hazardous conditions to workers in the facility.
Finding Details	The temperature assessment conducted by the factory does not include the Fabric Warehouse; hence, the factory has not corroborated whether this work area has adequate heat conditions as legally required.
Recommendation for Immediate Action	Include Fabric Warehouse in the temperature assessment.
Compliance Classifications	Immediate Action Required
Local Law	Regulations to the General Law on Occupational Risks Prevention at Workplace, Art. 137 and 138.
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	During the observation tour at Plant 01, the assessors found that the eyewash station was not nearby the mechanic's workshop, where chemicals are in use. The factory addressed this issue by placing the eyewash at the mechanic's workshop.
Recommendation for Immediate Action	Install an eyewash station at the mechanics workshop of Plant 01.
Compliance Classifications	Immediate Action Required
Local Law	Regulations to the General Law on Occupational Risks Prevention at Workplace, Art. 221.

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) During the review of health and safety records, the assessors noted that the occupational risk identification is missing the risk of chemical exposure for mechanics. The factory addressed this issue during the onsite assessment by updating the risk assessment. 2) During the observation tour at Plant 02, the assessors noted one rail placed on the floor at the Cutting Department, but it was missing signalization indicating the risk of fall or tripping from the rail. The factory addressed this issue during the onsite assessment, by placing the corresponding signalization to the rail.
Recommendation for Immediate Action	1) Update the risk assessment for mechanics to include the risk of chemical exposure. 2) Put signalization at the rail placed on the floor at the Cutting Department to indicate the risk of fall.
Compliance Classifications	Immediate Action Required
Local Law	Regulations to the General Law on Occupational Risks Prevention at Workplace, Art. 221. 2) Regulations to the General Law on Occupational Risks Prevention at Workplace, Art. 112.

Hours Of Work (HOW)

Benchmark ID	HOW.22.1
Benchmark Details	Employers shall have in place policies for managing all working hour, overtime, and leave records in normal and exceptional circumstances.
Finding Details	Policy on hours of work does not include a commitment to voluntary overtime. In practice, the assessors did not find issues related to forced overtime.
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	

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