

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**15 Aug 2022**



## Factory Information

FLA Affiliates	The Antigua Group, inc
Country	Vietnam
Number of Workers	880

## 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)	3
Employment Relationship (ER)	6
Health, Safety And Environment (HSE)	11
Hours Of Work (HOW)	2

## Assessment Information

Assessor	OneStep Viet Co., Limited
Assessment Date	15 Aug 2022
Assessment Purpose	



## ASSESSMENT RESULTS

### Compensation (C)

Benchmark ID	C.21.2
Benchmark Details	All benefits shall be calculated correctly
Finding Details	<p>1) Based on document review and management confirmation, it is noted that the menstruation payment (according to the new legal requirements) is not paid to those female workers who are entitled to hourly rate salary, such as security, canteen staff, etc; 2) Based on document review and management confirmation, one historical issue is found. It is noted that the factory does not pay child-care allowance for male workers caring for children going to kindergarten when the new Labor code has come into force on January 1, 2021. The factory started to pay child-care allowance for male workers nursing children going to kindergarten on January 1, 2022, instead; 3) Based on document review and management confirmation, one historical issue is found. It is noted that the factory does not apply to reduce 2 working hours per day for female workers caring for children going to kindergarten when the new Labor Law has come into force on January 1, 2021. The factory started to apply this benefit for those female workers on January 1, 2022, instead.</p>
Recommendation for Immediate Action	<p>1) Pay menstruation payment for female workers who are entitled to hourly rate; 2) Pay back child-care allowance for affected workers; 3) Calculate accurately the payment for female workers who have children under 12 months old and work hazardous and heavy jobs as legally required.</p>
Compliance Classifications	Immediate Action Required
Local Law	<p>1) Labor code (Law No. 45/2019/QH14), Article 137, Clause 4 and Decree No. 145/2020/ND-CP, Article 80, Clause 3; 2) Labor code (Law No. 45/2019/QH14), Article 136, Clause 4; 3) Labor code (Law No. 45/2019/QH14), Article 137, Clause 2 and Decree No. 145/2020/ND-CP, Article 80, Clause 4</p>

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	Based on document review and management confirmation, it is noted that the factory applies different monthly wages (hourly rate) to contribute social insurance for hourly rate workers (such as security and canteen staff). For example, the factory pays VND 4,700,000 as a monthly salary, but the factory based on the salary of VND 4,550,000 to contribute to the social insurance for this worker in July 2022. Remark: There is no such practice applied for piece-rate workers.
Recommendation for Immediate Action	Apply monthly wage to contribute to social insurance as legally required.
Compliance Classifications	Immediate Action Required
Local Law	Law on Social insurance (Law No. 58/2014/QH13), Article 89
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	Based on document review and management confirmation, it is noted that the factory has not paid the final resignation payment to one worker who took 5 unpaid leaves (absent 5 days without reasonable reasons, then quit their job) on June 28, 2022 then terminated the labor contract. However, this worker is yet paid 3 unused annual leaves which equaled at least VND 447,219 on the day of the assessment. The factory management explained that this worker has not come to receive this payment yet.
Recommendation for Immediate Action	Pay the final resignation payment for the resigned worker sufficiently as legally required.

Compliance Classifications	Immediate Action Required
Local Law	Labor code (Law No. 45/2019/QH14), Article 48
<b>Employment Relationship (ER)</b>	
Benchmark ID	ER.11.2
Benchmark Details	Employers must ensure the following minimum terms and conditions are met in the employment of contract/contingent/migrant/temporary workers: Contract/contingent/migrant/temporary workers shall be provided an employment agreement in their native language setting out the employment terms and conditions. for migrant workers, a copy of their employment contract in their native language shall be provided prior to departure from their country of origin;
Finding Details	Based on document review and confirmation from factory management, it is noted that the factory does not provide the annex of the labor contract to update/revise the minimum wage for the workers when the minimum wage was increased on July 1, 2022.
Recommendation for Immediate Action	Provide the annex of the labor contract to update/revise the minimum wage for the workers as legally required.
Compliance Classifications	Immediate Action Required
Local Law	Labor code (Law No. 45/2019/QH14), Article 22
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	Based on document review and confirmation from factory management, it is noted that there is no periodic training provided for employees including monitoring the factory's policies, terms on labor and Health, Safety and Environment (HSE) as well as FLA Codes.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
Benchmark ID	ER.6.1
Benchmark Details	Employers shall have written policies and procedures and implement practices that encourage ongoing training of all categories of workers with the goal of raising or broadening skills in order to advance in their careers within the factory or beyond.
Finding Details	Based on document review and confirmation from factory management, it is noted that the factory does not have procedures for raising or broadening employees' skills to advance their careers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Labor code (Law No. 45/2019/QH14), Article 6
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	Based on document review and confirmation from factory management, it is noted that the factory does not have a performance review procedure.
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 and confirmation from factory management, it is noted that the factory does not have promotion and demotion policies and procedures.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
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	Based on document review and management confirmation, it is noted that the factory does not include the probation period when calculating severance payment of resigned workers nor additional insurance pay-back amount for the probation period as legally required.
Recommendation for Immediate Action	Pay severance payment for the probation period of resigned workers and additional insurance pay-back amount for the probation period as legally required.
Compliance Classifications	Immediate Action Required
Local Law	Labor code (Law No. 45/2019/QH14), Article 46 and Article 168, Clause 3

### Health, Safety And Environment (HSE)

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	1) Based on observation and confirmation from factory management, it is noted that lanes for firefighting trucks are obstructed by shelves/materials outside of facility 1; 2) Based on observation and confirmation from factory management, it is noted that the rainwater drainage system is not covered at one out of six exit doors of the main production workshop to ensure safe evacuation.
Recommendation for Immediate Action	1) Ensure that lanes for firefighting trucks are unobstructed at all the times; 2) Ensure that exit doors are available and safe at all the times.

Compliance Classifications	Immediate Action Required
Local Law	1) National Technical Regulations No. 06/2021/BXD, Article 6, Clause 6.2; 2) National Technical Regulations No. 06/2021/BXD, Article 3, Clause 3.2
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	Based on observation and confirmation from factory management, it is noted that at least three out of ten observed exit aisles are obstructed by trolleys in the cutting section.
Recommendation for Immediate Action	Ensure that exit aisles are unobstructed at all the time.
Compliance Classifications	Immediate Action Required
Local Law	National Technical Regulations No. 06/2021/BXD, Article 3, Clause 3.3
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	1) Based on observation and confirmation from factory management, it is noted that 10 containers of chemicals (A105- "boiler water treatment", spot lifter 831, PP Oil, spray way 821, acetone) are not stored in secondary containment at the chemical warehouse, the packing area, accessory room and the maintenance room (workshop 2); 2) Based on observation and confirmation from factory management, it is noted that 10 chemical containers of KMK 7272, P.P oil, butyl acetate - "xăng thơm" and acetone are not labeled with main contents and hazards at the chemical warehouse and washing room; 3) Based on observation and confirmation from factory management, it is noted that the factory did not post the codes of hazardous waste at the hazardous waste warehouse.
Recommendation for Immediate Action	1) Equip secondary containment for chemical containers at chemical storage; 2) Label chemical containers with main contents and hazards; 3) Post hazardous waste codes at hazardous waste storage.
Compliance Classifications	Immediate Action Required
Local Law	1) Law on Chemicals (No. 06/2007/QH12), Article 37; 2) Law on Chemicals (No. 06/2007/QH12), Article 27 and Circular No. 32/2017/TT-BCT, Article 6; 3) Decree No. 08/2022/ND-CP, Article 68
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	Based on document review and confirmation from factory management, it is noted that the food samples are not kept for at least 72 hours and not more than 4 degree Celsius as per applicable standards. They are kept for 24 hours and at 25 degree Celsius as mentioned in the food sample record. Remark: This practice complies with local legal requirements.
Recommendation for Immediate Action	Keep the sample food for at least 72 hours and maintain the cooling temperature for storing at 4 degrees Celsius or lower than 4 degree Celsius as applicable standard.

Compliance Classifications	Immediate Action Required
Local Law	N/A
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	Based on observation and confirmation from factory management, it is noted that some electrical wires are connected by duct tape in the security room, and machine storage (facility 1).
Recommendation for Immediate Action	Make sure electrical cord splices/wires are in good condition and without tape or other repairs.
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	Based on observation and confirmation from factory management, it is noted that there are no devices to cover hot water which is released from returning pipelines in the boiler area.
Recommendation for Immediate Action	Provide a device to cover hot water which is released from returning pipelines in the boiler area.
Compliance Classifications	Immediate Action Required
Local Law	Law on Occupational safety and hygiene (No. 84/2015/QH13), Article 16

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) Based on observation and confirmation from factory management, it is noted that: a. There was no inspection tag on six out of eight fire extinguishers at the parking area to ensure that they are checked every 30 days. b. There was no using instruction for two out of eight fire extinguishers at the parking area; 2) Based on observation and confirmation from factory management, it is noted that: a. All three firefighting pumps are turned off at facility 2. Therefore, the sprinkler system is not well-functioned. b. One out of four firefighting pumps (gasoline pump) is out of order at facility 1 during the assessment time. The in-charge person explained that this pump was broken in the previous week and they did contact the contractor to fix it. c. Three firefighting pumps are not checked/tested weekly as legally required. The latest check was on July 30, 2022. Besides, there is no record to ensure that level of water in firefighting tanks is checked weekly.
Recommendation for Immediate Action	1) Check fire extinguishers every 30 days. Check and test firefighting pumps weekly as legally required. Post instructions for fire extinguishers; 2) Make sure that firefighting equipment is designated in the right mode of operation. Provide backup solutions in emergency cases and ensure the contingency plan is followed.
Compliance Classifications	Immediate Action Required
Local Law	1) National Standard TCVN 3890:2009, Article 5; 2) National Standard TCVN 3890:2009, Article 8
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.

<p>Finding Details</p>	<p>1) Based on observation and confirmation from factory management, it is noted that: a. The hazardous waste e.g. empty chemical containers, and used chemicals (lubricant) are stored at security guards instead of at designated storage. b. Hazardous wastes (contaminated fabric &amp; fluorescent) are stored together in the maintenance room (Workshop 2) instead of being classified; 2) Based on observation and confirmation from factory management, it is noted that water including chemical (lubricant) from two air compressor tanks is discharged directly into the environment without any treatments; 3) Based on the environmental protection plan review, it is noted that: a. The wastewater has yet to be tested once every 06 months as required in the approved environmental protection plan. The latest test was on December 29, 2021. b. The latest wastewater test on December 29, 2022, included 7 instead of 9 parameters as required in the approved environmental protection plan (lack of Ammonium and Total mineral fats and oils); 4) Based on the environmental protection plan review, it is noted that the air emission has yet to be tested once every 06 months as required in the approved environmental protection plan. The latest test was on December 29, 2021; 5) Based on observation and confirmation from factory management, it is noted that a part of the parking area is changed into a machine storage area (around 300 square meters). However, the approved firefighting and prevention plan is not updated to match the actual layout; 6) Based on document review and confirmation from factory management, it is noted that the factory did not provide regular health checks for workers in 2021 due to the COVID-19 pandemic. Remark: This is a historical issue. The factory only provided this health check for 17 canteen staff in October 2021; 7) Based on document review and confirmation from factory management, it is noted that the latest occupational condition evaluation was on July 20, 2021 and expired on July 20, 2022. However, the factory has yet to conduct the new evaluation. The factory has just signed the contract for this at the assessment time.</p>
<p>Recommendation for Immediate Action</p>	<p>1) Hazardous waste and ordinary waste shall be sorted at a suitable place; 2) Wastewater shall be collected and treated correctly; 3) Conduct wastewater tests as being required in the approved environmental protection plan; 4) Conduct air emission tests as required in the approved environmental protection plan; 5) Update the firefighting and prevention plan to match the actual layout; 6) Provide regular health checks for all workers as legally required; 7) Occupational condition evaluation should be measured as legally required.</p>

Compliance Classifications	Immediate Action Required
Local Law	1) Circular No. 02/2022/TT-BTNMT, Article 35; 2) Law on Environmental protection (No. 72/2020/QH14), Article 7; 3 and 4) Law on Environmental protection (No. 72/2020/QH14), Article 47 and 171; 5) Decree No. 136/2020/ND-CP, Article 19; 6) Law on Occupational safety and hygiene (No. 84/2015/QH13), Article 21; 7) Law on Occupational safety and hygiene (No. 84/2015/QH13), Article 18;
Benchmark ID	HSE.14.3
Benchmark Details	Employers shall ensure safety instructions are either displayed or posted near all machinery or are readily accessible to the workers in language(s) spoken by workers.
Finding Details	Based on observation and confirmation from factory management, it is noted that 10 pressing machines do not have the standard operating procedures (SOP).
Recommendation for Immediate Action	Post SOP/safety instruction at machines.
Compliance Classifications	Immediate Action Required
Local Law	Law on Occupational safety and hygiene (No. 84/2015/QH13), Article 16
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	1) Based on observation and confirmation from factory management, it is noted that two holes in the firefighting tanks are not covered/secured. Besides, the factory has not developed steps for working in confined spaces; 2) Based on observation and confirmation from factory management, it is noted that the factory does not install safety covers at ladders and/or equip protective equipment (safety belts) for boiler operators when they check the boilers (over 4 meters).
Recommendation for Immediate Action	1) Confined spaces shall have appropriate protections. Establish confined space and fall protection procedure; 2) Install safety covers at ladders and/ or equip protective equipment for the employee when they work at a height (over 2 meters).
Compliance Classifications	Immediate Action Required
Local Law	1) Circular No. 29/2018/TT-BLDTBXH, Article 2; 2) N/A
Benchmark ID	HSE.10.1
Benchmark Details	Material Safety Data Sheets (MSDS) for all chemicals and hazardous substances used in the workplace must be available at the usage and storage sites of the chemicals and hazardous substances, in the local language and the language spoken by workers, if different from the local language.
Finding Details	Based on observation and confirmation from factory management, it is noted that there are no material safety data sheets (MSDSs) of 15 chemicals containers e.g. A105, KMK 7272, P.P oil, spot lifter 831, spray way 821; acetone) posted at the chemical warehouse and accessory room.
Recommendation for Immediate Action	Material safety data sheets (MSDSs) are posted at places where chemicals are stored or used.
Compliance Classifications	Immediate Action Required
Local Law	Law on Chemicals (No. 06/2007/QH12), Article 29 and Decree No. 113/2017/ND-CP, Article 24

## Hours Of Work (HOW)



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 document review and management confirmation, it is noted that approximately 10% workers worked on one Sunday in June 2022 which caused total weekly working hours (OT) to exceed 60 hours per week. These workers worked up to 63 hours per week (including overtime) due to urgent orders.
Recommendation for Immediate Action	Control the working hours (including overtime) not to be more than 60 hours/week.
Compliance Classifications	Immediate Action Required
Local Law	N/A
Benchmark ID	HOW.2
Benchmark Details	Workers shall be entitled to at least 24 consecutive hours of rest in every seven- day period. If workers must work on a rest day, an alternative consecutive 24 hours must be provided within that same seven-day period or immediately following.
Finding Details	Based on document review and management confirmation, it is noted that approximately 10% of workers worked on one Sunday in June 2022 with a maximum of 13 consecutive working days without weekly rest days due to urgent orders.
Recommendation for Immediate Action	Provide rest days for workers as legally required.
Compliance Classifications	Immediate Action Required
Local Law	Labor code (Law No. 45/2019/QH14), Article 111

