

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

05 Sep 2022



Factory Information

FLA Affiliates	SanMar Corporation
Country	Vietnam
Number of Workers	1524

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

FLA Code Element	Number of Violations
Child Labor (CL)	1
Compensation (C)	3
Employment Relationship (ER)	15
Freedom Of Association And Collective Bargaining (FOA)	2
Harassment Or Abuse (H/A)	1
Health, Safety And Environment (HSE)	9
Hours Of Work (HOW)	3
Nondiscrimination (ND)	1

Assessment Information

Assessor	Openview - Vietnam
Assessment Date	05 Sep 2022
Assessment Purpose	Factory Assessment (In-Person)

ASSESSMENT RESULTS

Child Labor (CL)

Benchmark ID	CL.8.1
Benchmark Details	Employers shall collect and maintain all documentation necessary to confirm and verify date of birth of all workers, such as birth certificates.
Finding Details	Though there is no signal of child labor or juvenile workers noted or reported, the factory does not keep personal profiles of all 12 outsourced canteen staff for review during the assessment. Due to lacking the document provided, assessors cannot accurately verify the age of those outsourced workers.
Recommendation for Immediate Action	Verify age and keep personal profile of all workers in place.
Compliance Classifications	Immediate Action Required
Local Law	Nil

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	1. The factory does not provide the responsibility allowance for 20 members of the occupational health and safety team as legally required; 2. The factory does not pay an extra salary equal to VND51,000 per day (30% of the region-based daily minimum wage) for the training of the fire-fighting team as legally required. There is a total of 30 members of the fire-fighting team who joined training on fire prevention and fighting on October 29, 2021 to November 04, 2021.
Recommendation for Immediate Action	1. Provide responsibility allowances to members of the occupational health and safety team as legally required. 2. Pay training allowance to fire team members as per law.
Compliance Classifications	Immediate Action Required
Local Law	Law on Occupational Safety and Hygiene 2015, Article 74 & Decree 136/2020/ND-CP, Article 34 & Circular 04/2021/TT-BLĐTBXH, Article 5
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	Neither the menstrual leave with a daily break of 30 minutes for at least three working days per month nor menstruation allowance is provided for female workers during probation time.
Recommendation for Immediate Action	Provide menstruation leave and menstruation allowance to female workers as per legal requirements.
Compliance Classifications	Immediate Action Required
Local Law	Decree No.145/2020/ND-CP, Article 80.
Benchmark ID	C.3.1.3
Benchmark Details	Where probationary employment is legally allowed, no workers shall work more than three months in this employment category.

Finding Details	Two out of 20 sample selected workers reviewed for probation (cutting section and inspecting section) have undergone 31 days for probation period instead of the maximum 30 days as per law. The factory also does not have a job description or detailed instructions to classify the positions that require a secondary vocational certificate, professional secondary school; positions for technicians, skilled employees, and other jobs to link with the probation period as per local law.
Recommendation for Immediate Action	Follow the local laws to apply for the probation of workers in the factory.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 25.

Employment Relationship (ER)

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	The major contents of employment contracts are insufficient: a) Factory does not include the gender, phone number and email (if any) of workers; email (if any) of the employer; other benefits provided to workers such as attendant allowance, transportation allowance in the contents of labor contracts; b) The lunch break time from 12:00 to 13:00 is not indicated in the labor contracts; c) Labor contracts are not indicated the form of salary payment: cash or being transferred to the bank account.
Recommendation for Immediate Action	Put all required information in the labor contracts as per local law required.

Compliance Classifications	Immediate Action Required
Local Law	Circular No. 10/2020/TT-BLDTBXH, Article 3.
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. The ongoing training for workers does not include all FLA's Code elements, lacking Employment Relations, Nondiscrimination, Harassment or Abuse, Forced labor, Child labor, Freedom of Association and Collective Bargaining, Health, safety and Environment, Hours of work, Compensation. 2. The factory does not completely define the qualified staff responsible for each FLA's code elements and FLA Employment Functions. There is only a simple organization chart showing the responsible staff for Compensation, Recruitment, Health Safety, and Environment.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
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	The training for supervisors does not cover all FLA's Code elements, including Employment Relations, Non-discrimination, Harassment or Abuse, Forced labor, Child labor, Freedom of Association and Collective Bargaining, Hours of work, and Compensation.

Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
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 suggestion boxes are opened and checked by only one CSR staff rather than having at least one more party to ensure the workers' suggestions/complaints can be handled sufficiently, transparently, and confidently. The factory does not keep checking records for suggestion boxes for review.
Recommendation for Immediate Action	Assign one more party or person in charge to double check for the grievance monitoring in the factory.
Compliance Classifications	Immediate Action Required
Local Law	Nil
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.

<p>Finding Details</p>	<p>1. Though there is no obvious case of discrimination noted or reported, the factory interview procedure established on November 25, 2021 requires the candidate from 18 years old and no previous conviction to be hired that is against the factory non-discrimination policy and the legal requirements. 2. The procedure for non-discrimination is established. However, the prohibition statements do not included types of possible discrimination such as sexual orientation, nationality discrimination, race, marital status, disability, HIV/AIDS infection, pregnancy, age, and social groups. There is no procedure in place to handle the cases of discrimination found in the factory, including steps to discipline for the violations related to the non-discrimination policy. 3. There is no procedure in place to handle the cases of forced labor found in the factory, including steps to discipline for the violations related to forced labor policy. 4. There is no procedure in place to handle the cases of child labor violations in the factory, including steps to discipline for the violation related to child labor policy. 5. The factory has not developed policies and procedures to handle cases of retrenchment following the local law and FLA benchmarks. 6. There are no job descriptions established for all jobs and positions in the factory.</p>
<p>Recommendation for Immediate Action</p>	<p>N/A</p>
<p>Compliance Classifications</p>	<p>Sustainable Improvement Required</p>
<p>Local Law</p>	<p>Nil</p>
<p>Benchmark ID</p>	<p>ER.18.1</p>
<p>Benchmark Details</p>	<p>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).</p>

Finding Details	The Internal Labor Regulation issued and registered with the local authority on February 1, 2021 does not include key contents for compensation levels in proportion to the damage caused and persons having the rights to claim compensation; decontamination and disinfection at the workplace; unpaid leaves; procedures for taking actions against sexual harassment violation in the workplace; a list of assets, documents, technological secrets, business secrets, intellectual property; responsibility, measures for protection thereof as per legal requirement.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Decree No.145/2020/ND-CP, Article 69.
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	The factory has not developed policies and procedures to implement personnel development that encourages ongoing training with the goal of raising or broadening workers' skills so they can advance in their careers.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
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 has not developed policies and procedures to implement performance reviews for workers that include steps and processes, linkages to job grading, nondiscrimination, written feedback, and compliance with legal requirements.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
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 has not developed policies and procedures for promotion and demotion. As confirmed by the factory management, promotion and demotion are solely decided by the line managers.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
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	1. There is no evidence for regular effective communication with workers, especially for updates on Employment Relationships, Nondiscrimination, Harassment or Abuse, Forced labor, Child labor, Freedom of Association and Collective Bargaining, Hours of work, and Compensation.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
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 have clear guidance and procedure to evaluate workers' performance for signing labor contracts after probation or renewing the labor contracts. The factory now only has a simple form with two options "Yes" or "No" for signing or renewing labor contracts and there is no further guidance on the evaluation and decision.
Recommendation for Immediate Action	Develop detailed guidance to evaluate workers' performance for signing labor contracts after probation or renewing the labor contracts.
Compliance Classifications	Immediate Action Required

Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 27.
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 for new workers does not cover FLA's Code Elements such as Employment Relationship, Nondiscrimination, Harassment or Abuse, Forced labor, Child labor, Freedom of Association and Collective Bargaining, Health, safety and Environment, Hours of work, Compensation; lacking training on Employment functions such as Recruitment, Hiring & Personnel Development, Grievance System, Environment protection, Termination, and Retrenchment.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.1.3
Benchmark Details	Employers should implement an annual, review process with input from workers of all policies, procedures and their implementation to ensure they meet legal requirements and the FLA Workplace Code.
Finding Details	1. There are no records and data in place to prove that the factory conducts a comprehensive review of the established compliance policies, procedures, and implementation to ensure they meet legal requirements and the FLA Workplace Code. 2. Workers are not consulted or integrated into the decision-making process concerning workplace and working conditions. Policies and procedures are solely established by the social compliance team, HR, and HSE team without consultation or integration from workers.

Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.18.3.4
Benchmark Details	Records of disciplinary action must be maintained in the worker's personnel file.
Finding Details	All records of labor disciplinary actions are not maintained in workers' personnel files. They are kept separately in the HR section.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.18.1.1
Benchmark Details	The disciplinary system shall be applied in a fair and nondiscriminatory manner and include a management review of the actions by someone senior to the manager who imposed the disciplinary action.

Finding Details	The disciplinary procedures and practices are not aligned with legal requirements: a) The procedure does not include the content as per the legal requirement that the employer shall inform the violation records to the trade union representative or the employee's legal representative of at least 5 working days before the disciplinary meeting is held, the employer shall notify the mandatory participants of the contents, time and location of the meeting, the full name of the employee-facing disciplinary procedure and his/her violations; upon receipt of the employer's notification, the mandatory participants shall send the employer confirmation of their participation; b) The disciplinary meeting minutes do not indicate in details which points of Internal Labor Rules are violated; c) One sampled selected worker has applied the written reprimand measure for her violation although she is a pregnant worker and should be exempted from labor discipline as per legal requirements.
Recommendation for Immediate Action	Stop to discipline pregnant workers, and follow local law for the labor discipline process.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 122; Decree No.145/2020/ND-CP, Article 70

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.

<p>Finding Details</p>	<p>1. An insufficient number of workers and employer representatives participated in the social dialogues conducted on December 24, 2021. There was only one instead of at least three representatives of the employer; only five instead of at least 24 representatives of workers participated in the social dialogue. In addition, no employee conferences were conducted at the factory in 2021. 2. The factory does not implement the bargaining process before signing the Collective Bargaining Agreement (CBA) as per law requirements. The factory just negotiated verbally (as reported by the factory manager) with workers instead of conducting the survey and agreeing with at least 50% of workers before implementation.</p>
<p>Recommendation for Immediate Action</p>	<p>1. Conduct the social dialogues with the correct number of workers representatives as per law. 2. Implement the bargaining process before signing the Collective Bargaining Agreement (CBA) as per law requirements to conduct surveys with workers.</p>
<p>Compliance Classifications</p>	<p>Immediate Action Required</p>
<p>Local Law</p>	<p>Decree No.145/2020/ND-CP, Article 38 and Article 47; Vietnam Labor Code No. 45/2019/QH14, Article 82.</p>
<p>Benchmark ID</p>	<p>FOA.2</p>
<p>Benchmark Details</p>	<p>Workers, without distinction whatsoever, shall have the right to establish and to join organizations of their own choosing, subject only to the rules of the organization concerned, without previous authorization. The right to freedom of association begins at the time that workers seeks employment and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers.</p>

Finding Details	FLA comments: Vietnam has not ratified ILO Convention 87. Under Vietnamese law, all unions are required to affiliate with a 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	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

Harassment Or Abuse (H/A)

Benchmark ID	H/A.8.3
Benchmark Details	Employers, shall develop, implement and monitor policy and procedures for eliminating the risk of violence, harassment, and abuse in the workplace. Policies and procedures shall include a clear statement that violence, harassment, and abuse will not be tolerated, procedures for the investigation of allegations, and measures to protect any complainants, victims, and witnesses.
Finding Details	There is no specific regulation or procedure to discipline supervisors, managers, and workers who are involved in any form of harassment and abuse.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required

Local Law	Nil
Health, Safety And Environment (HSE)	
Benchmark ID	HSE.30.1
Benchmark Details	Employers shall develop, maintain, and regularly review health, safety, and environmental policies to ensure that they comply with all national laws, regulations and the FLA Workplace Code concerning health, safety, and environmental standards, regulations and procedures.
Finding Details	The procedures for air emission, chemical management, and environmental emergency responses have not been developed to implement.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
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 glue cans at the carton boxes warehouse are not provided with secondary containers.
Recommendation for Immediate Action	Provide secondary containers for all chemicals used and stored.
Compliance Classifications	Immediate Action Required

Local Law	Law on Chemicals (No. 06/2007/QH12). Article 37
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 factory has not established a management procedure for heat stress. There are no identification lists and improvement measures for high-temperature workplaces such as the ironing section or boiler room provided for review.
Recommendation for Immediate Action	Established a management procedure for heat stress to implement at the factory.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.

<p>Finding Details</p>	<p>1. There are trucks, containers, private cars, and motorbikes used at the factory. But the factory has not developed an internal traffic management procedure to implement, and no convex mirrors installed at the road corners for the workers to proactively check truck dangers on another side of the road. There are no traffic lanes marked for vehicles and walk paths for pedestrians. 2. The factory does not assess, instruct or regulate on loading limits for the storage shelves of materials. The factory does regulate to conduct the inspection of the storage shelves and mobile ladders used in the material warehouse. 3. The two-hand operation mechanism is not installed for the two observed cutting machines. As per observation, workers use only one hand to operate these cutting machines during working hours; most ironing machines are not provided with safety covers for the hot parts. 4. The factory has not developed a procedure to implement for the Lockout and Tagout (LOTO) program.</p>
<p>Recommendation for Immediate Action</p>	<p>1. Develop an internal traffic management procedure to implement, install convex mirrors at the road corners for the workers to proactively check truck dangers on another side of the road, and mark traffic lanes for vehicles and walk paths for pedestrians. 2. Regulate and implement the loading capacity for storage shelves; inspect the ladders used in the factory. 3. Install a two-hand operation mechanism for all cutting machines. 3. Develop and implement for LOTO program.</p>
<p>Compliance Classifications</p>	<p>Immediate Action Required</p>
<p>Local Law</p>	<p>Law on Occupational Safety and Hygiene 2015, Article 16.</p>
<p>Benchmark ID</p>	<p>HSE.4.1</p>
<p>Benchmark Details</p>	<p>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.</p>

<p>Finding Details</p>	<p>1. The factory has built the partition in the finishing area to make a drying room but the factory does not obtain approvals from the local fire police for the renovation. As per the inspection report from local fire police conducted on June 02, 2022, the factory is required to complete the fire safety approval application before June 20, 2022. However, the factory has not obtained and provided the approved fire safety designs and fire safety acceptance approvals for review during the assessment. Factory explained that they are still in the process of working with the fire-fighting consulting company for further process to get approvals from local fire police. 2. The factory has not registered two pressure vessels and one air-compressor tank classified as machines with strict requirements on Occupational Health and Safety to the local authority as legally required. 3. The factory has not invited a qualified contractor to conduct the technical inspection for one pressure vessel (2-10 bar of pressure) at the fire water pump and the metal piping systems carrying compressed air as legally required.</p>
<p>Recommendation for Immediate Action</p>	<p>1. Work with the local authority to obtain the approved fire safety designs and fire safety acceptance approvals. 2. Register two pressure vessels and one air-compressor tank classified as machines with strict requirements on Occupational Health and Safety to the local authority as legally required 3. Conduct inspection for compressors are per law required.</p>
<p>Compliance Classifications</p>	<p>Immediate Action Required</p>
<p>Local Law</p>	<p>Decree 136/2020/ND-CP, Articles 05 and 13 & Decree 44/2016/NĐ-CP, Article 16 & Circular 08/2021/TT-BLDTBXH, Article 01.</p>
<p>Benchmark ID</p>	<p>HSE.29</p>
<p>Benchmark Details</p>	<p>Employers shall provide all necessary protection for workers when working at heights, confined spaces, and other high-risk areas.</p>
<p>Finding Details</p>	<p>1. There is no assessment of the potential sources of radiation in the workplace to propose the necessary measure for workers. 2. The factory has not developed a procedure to manage confined spaces. There is no identification list of confined spaces such as boiler chambers and underground water storage tanks. There is no warning sign posted nearby the confined spaces, and no regulations on the safety work with confined spaces established.</p>

Recommendation for Immediate Action	1. Conduct an assessment for potential radiation in the workplace to propose appropriate actions. 2. Develop safety procedures to implement for confined spaces.
Compliance Classifications	Immediate Action Required
Local Law	Law on Occupational Safety and Hygiene 2015, Article 16.
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	The factory does not make the chemical inventory list for review. The chemicals cans (glues) found in the carton box warehouse and chemicals used for the wastewater treatment plant are not provided with material safety data sheets (MSDS).
Recommendation for Immediate Action	Provide MSDS for all chemicals used and stored in the factory.
Compliance Classifications	Immediate Action Required
Local Law	TCVN 5507:2002, Point 4.1.2.
Benchmark ID	HSE.30.2.6
Benchmark Details	The health, safety, and environmental policies shall contain the framework for a comprehensive health, safety, and environmental management system including a HS&E risk assessment within which the following are clear and regularly tested and reviewed:protections to workers who allege health, safety, and environmental violations;

Finding Details	The Occupational Health and Safety (OHS) risk assessment conducted on July 12, 2022 is insufficient and does not cover the related risks of radiation, confined spaces, sharp points of fabric pins, and building safety. The factory has not yet conducted an OHS risk assessment for the management dormitory, parking areas, and wastewater treatment plant.
Recommendation for Immediate Action	Review and conduct additional OHS risk assessments for the missing workplaces and buildings.
Compliance Classifications	Immediate Action Required
Local Law	Law on Occupational Safety and Hygiene 2015, Article 77.
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 of 80 percent workers in sewing and finishing sections in production workshops are not provided with back-rest chairs as a measure to reduce the hazards for workers from occupational diseases related to prolonged seated work.
Recommendation for Immediate Action	Provide chairs with backrest to workers.
Compliance Classifications	Immediate Action Required
Local Law	Law on Occupational Safety and Hygiene 2015, Article 16.

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.

<p>Finding Details</p>	<p>Workers work overtime more than the local limit in the sample selected months as below: 14 out of 25 sample selected workers in July 2022 from Inspecting, Sewing, Cutting, QC, Finishing, Pressing, Maintenance, and Warehouse worked overtime more than 60 hours per month, maximum monthly overtime is 70.5 hours; 8 out of 25 sample selected workers in May 2022 from Inspecting, Sewing, Cutting, QC, Finishing, Pressing, Maintenance, Warehouse worked overtime more than 60 hours per month, maximum monthly overtime hour is 66 hours; 17 out of 25 sample selected workers in November 2021 from Inspecting, Sewing, Cutting, QC, Finishing, Pressing, Maintenance, and Warehouse worked overtime more than 40 hours per month, maximum monthly overtime is 66 hours; The time attendance records from August 2021 to September 4, 2022 are provided for review.</p>
<p>Recommendation for Immediate Action</p>	<p>Review the production plan and workforce to reduce overtime as per local limit.</p>
<p>Compliance Classifications</p>	<p>Immediate Action Required</p>
<p>Local Law</p>	<p>Vietnam Labor Code No. 45/2019/QH14, Article 107, Point 2b, and Resolution No. 17/2022/UBTVQH15, Article 2.</p>
<p>Benchmark ID</p>	<p>HOW.14</p>
<p>Benchmark Details</p>	<p>Employers shall provide workers taking annual leave their normal or average wages for the full period of annual leave in advance, unless specified differently under national laws, regulations and procedures.</p>
<p>Finding Details</p>	<p>1. The payments for untaken annual leaves paid to workers who resigned in March 2022 are not correct due to the wrong formula. The factory uses the standard working days in March 2022 instead of the actual working days in the month preceding the resigned month of workers, in February 2022 in this case as per law. 2. Annual leave is not provided sufficiently to resigned workers who do not work full month. Workers have total working days and paid leave days (holidays, annual leave, personal leave) from 50% of total working days in a month but they are not paid for the annual leave as per law.</p>

Recommendation for Immediate Action	1. Calculate and provide annual leave correctly for workers. 2. Pay untaken annual leave to resigned workers as per law.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 114 and Decree No.145/2020/ND-CP, Article 66 and Article 67.
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	Workers work more than 60 hours a week in the sample selected months as below: 20 out of 25 sample selected workers in July 2022 from Inspecting, Sewing, Cutting, QC, Finishing, Pressing, and Warehouse worked more than 60 hours per week from one to four weeks; the maximum working hour is 64.5 hours per week; 19 out of 25 sample selected workers in May 2022 from Inspecting, Sewing, Cutting, QC, Finishing, Pressing, and Warehouse worked more than 60 hours per week from one to three weeks; the maximum working hour is 64.5 hours per week; 16 out of 25 sample selected workers in November 2021 from Inspecting, Sewing, Cutting, QC, Finishing, Pressing, and Warehouse worked more than 60 hours per week from one to three weeks; the maximum working hour is 63 hours per week. The time attendance records from August 2021 to September 4, 2022 are provided for review.
Recommendation for Immediate Action	Review the production plan and workforce to reduce the working hours of workers as per FLA Benchmarks within 60 hours per week.
Compliance Classifications	Immediate Action Required
Local Law	Nil

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	There are 27 pregnant workers based on the list provided by the factory. Those pregnant workers are still working 8 hours per day and work overtime until the 7th month of pregnancy. The factory explains that they re-assign pregnant workers to lighter and non-hazardous jobs, so it is not required to reduce working hours. However, the factory does not maintain any written records such as re-assignment letters, or labor contract annexes to prove that these pregnant workers are permanently re-assigned to the lighter and non-hazardous jobs as per law and therefore the working hour reduction is not required.
Recommendation for Immediate Action	Reduce working hours of pregnant workers as per law. In case the workers are re-assign to lighter, less hazardous jobs, all required documents and records should be kept in place.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 137.

