

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

22 Aug 2022



Factory Information

FLA Affiliates	Cutter and Buck,Hybrid Apparel
Country	Vietnam
Number of Workers	954

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)	4
Employment Relationship (ER)	1
Harassment Or Abuse (H/A)	2
Health, Safety And Environment (HSE)	14
Hours Of Work (HOW)	3

Assessment Information

Assessor	OneStep Viet Co., Limited
Assessment Date	22 Aug 2022

Assessment Purpose	Factory Assessment (In-Person)
--------------------	--------------------------------

ASSESSMENT RESULTS

Compensation (C)

Benchmark ID	C.21.2
Benchmark Details	All benefits shall be calculated correctly

<p>Finding Details</p>	<p>1) The factory did not pay an extra payment for female workers during their menstruation break from August 2021 to Jan 2022. As legal requirements, in case the female workers do not take their break during menstruation time, the employer needs to pay an extra payment that equals to 100% of premium rate with 1.5 hours per month. 2) The factory provides a fixed monthly bonus named "dedication bonus" which can be considered as seniority allowance as it is paid as follows: • Work more than 3 years: VND 150,000/person/month • Work more than 6 years: VND 250,000/person/month • Work more than 9 years: VND 350,000/person/month However, the factory does not count this amount (considered as fixed allowance and paid on a monthly basis) to calculate overtime payment, contribute mandatory insurance, pay legally required benefits for the workers. The factory management explained that this amount was just a bonus, the factory already paid seniority allowance as every year and increased 3% of seniority allowance and fully paid this seniority allowance to the employees. Note: There is seniority allowance on the payroll which is paid to the workers based on their seniority level together with the mentioned dedication bonus. 3) The factory does not reduce at least one working hour per day for female workers who have pregnancy and work hazardous and heavy jobs as legally required (has come into force since February 2021). In practice, pregnant workers work up to 8 hours per day without any extra payment (150% of premium rate for one working hour as legal break time for pregnant workers). Remark: the factory has revised this practice to be in line with legal requirement since July 2022 and no remediated action for impacted workers before July 2022; 4) The child care support allowance (VND 50,000 per child) are provided monthly for workers. However, this child care support allowance is provided for workers who signed labor contract only. The factory does not provide the child care support allowance for workers during their probationary duration.</p>
<p>Recommendation for Immediate Action</p>	<p>1) Pay menstruation break for female workers who do not take break as legally required. 2) Count this amount (considered as fixed allowance and paid on a monthly basis) to calculate overtime payment, contribute mandatory insurance, pay legally required benefits for the workers as legal requirements. 3) Calculate accurate monthly payments for female workers who have children under 12 months old and work hazardous and heavy jobs, as legally required. 4) Ensure child care support allowance is provided for all workers including probation workers.</p>

Compliance Classifications	Immediate Action Required
Local Law	1) Labor code (Law No. 45/2019/QH14), Article 137, Clause 4; Decree (No. 145/2020/ND-CP), Article 80, Clause 3; 2) Labor code (Law No. 45/2019/QH14), Article 94, 95; 3) Labor code (Law No. 45/2019/QH14), Article 137, Clause 2; Decree (No. 145/2020/ND-CP), Article 80, Clause 4; 4) Labor code (Law No. 45/2019/QH14), Article 136 Clause 4
Benchmark ID	C.6
Benchmark Details	All wages, including payment for overtime, shall be paid directly and in full within legally defined time limits. When no time limits are defined by law, compensation shall be paid at least once a month.
Finding Details	The contract wage is not applied on time (since the day of signed labor contract issued). As a general practice, workers sign labor contract after the 15th day of the month (from the 16th day onwards), the contract wage will be applied in the following month and workers will be paid probation wage from the 16th day to end of the current month. For instance, worker signed a labor contract on 16th June, 2022 at rate VND 4,505,000 and it has been effective since July 1st 2022, this worker was paid VND 4,020,000 (probation wage) for June 2022. Thus, the monthly contract wage as well as the overtime payment is paid insufficiently. Note: If workers sign probation labor contract and the first labor contract which is effective before the 16th day of the following month, they are paid at rate VND 4,505,000 for the whole following month. This practice is more beneficial for those workers. However, it is less beneficial for different workers as mentioned in the finding.
Recommendation for Immediate Action	Ensure that contract wage is applied on time from the day of signed labor contract issued.
Compliance Classifications	Immediate Action Required
Local Law	Labor code (Law No. 45/2019/QH14), Article 94
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	Based on worker interviews, it was noted that: 1) The cleaning team (from an on-site contractor) has to buy 2 T-shirts as uniform at VND 100,000 per one T-shirt. Their employer deducts VND 50,000 per month from their monthly wage for this cost. Thus, they will be deducted this amount in 4 months to pay-off for their uniform; 2) Cleaning team (from an on-site contractor) is not contributed compulsory social insurance because no permanent contract is signed with them (they just sign seasonal contract of 3 months only).
Recommendation for Immediate Action	1) Working tool/uniforms must be provided free of charge 2) Sign permanent contracts, and contribute to social insurance payments as legally required.
Compliance Classifications	Immediate Action Required
Local Law	1) Labor code (Law No. 45/2019/QH14), Article 102; 2) Law on Social Insurance (No. 58/2014/QH13), Article 89
Benchmark ID	C.17
Benchmark Details	Employers shall ensure that all legally required payroll documents, journals and reports are available, complete, accurate and up-to date.
Finding Details	The factory uses on-site contractors for security, canteen and cleaning services. However, there are no sufficient documents of payroll records provided for review during the assessment time, except for: payroll records of cleaning service and security service from May to July 2022. Thus, the information regarding wage, benefits could not be be verified. (There are 8 canteen staff, 11 security and 12 cleaning employees working at the time of the assessment)
Recommendation for Immediate Action	Ensure that factory has a system to follow the compliance of working conditions of canteen staff and security employees including keeping payroll records and relevant documents.

Compliance Classifications	Immediate Action Required
Local Law	N/A

Employment Relationship (ER)

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	Factory uses on-site contractors that are security, canteen and cleaning services. However, there are no sufficient documents of ID card, labor contract provided for review during the assessment time. Thus, the information regarding employment of contracted workers could not be verified (There are 8 canteen staff, 11 security and 12 cleaning employees working at the time of the assessment)
Recommendation for Immediate Action	Ensure that factory has a system to follow the compliance of working conditions of canteen staff and security employees including keeping labor contracts and relevant documents.
Compliance Classifications	Immediate Action Required
Local Law	N/A

Harassment Or Abuse (H/A)

Benchmark ID	H/A.10.1.2
Benchmark Details	Body searches and physical pat downs shall only be undertaken when there is a specific, legitimate reason to do so and upon consent of workers, unless a state official with the power to do so (e.g. police officer) has ordered the search.

Finding Details	The factory applies the same-gender pat-down for security and property purposes. It is applied day-by-day by the security staff to the workers whenever workers leave the factory for security purposes in the public area of the factory. The factory management explained that they were not aware of this FLA requirement.
Recommendation for Immediate Action	-The factory shall only conduct body searches and physical pat downs when there is a specific, legitimate reason to do so and upon consent of workers. -Document process for deeming physical body searches necessary, and what constitutes a physical threat or property threat, and that this process is clarified to workers.
Compliance Classifications	Immediate Action Required
Local Law	N/A
Benchmark ID	H/A.10.1.3
Benchmark Details	Body searches shall not be undertaken in public and the person who undertakes the search shall be of the same sex as the person who is being searched.
Finding Details	Based on worker interview, it is noted that the factory applies the same-gender pat-down for security and property purposes. It is applied day-by-day by the security staff to the workers whenever workers leave the factory for security purposes in the public area of the factory. The factory management explained that they were not aware of this FLA requirement.
Recommendation for Immediate Action	The factory shall only conduct body searches and physical pat downs when there is a specific, legitimate reason to do so and upon consent of workers. Body searches shall not be undertaken in public areas.
Compliance Classifications	Immediate Action Required
Local Law	N/A

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	11 exit arrows are blurred at finished goods warehouse, material warehouse, sewing section (factory B) and canteen.
Recommendation for Immediate Action	Re-paint exit arrows and maintain them in good condition.
Compliance Classifications	Immediate Action Required
Local Law	National Standard TCVN (No. 2622:1995), Article 7
Benchmark ID	HSE.5.1.2
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following elements: installation and maintenance of fire alarms;
Finding Details	The fire control panel at security gate shows error indicators. However, by testing the fire alarm control panel it functioned well.
Recommendation for Immediate Action	Ensure that fire alarm control panel is maintained through inspection, routine testing, and that tests are routinely documented, as legally required.
Compliance Classifications	Immediate Action Required
Local Law	National Standard TCVN (No. 3890:2009), Article 6
Benchmark ID	HSE.5.1.4

Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following: ensuring aisles/exits are not blocked and that workers are not blocked within their workstations
Finding Details	4 fire extinguishers are obstructed by cartons and trolley at production warehouse (factory B).
Recommendation for Immediate Action	Ensure that fire extinguishers are unobstructed at all time.
Compliance Classifications	Immediate Action Required
Local Law	National Standard TCVN (No. 3890:2009), Article 5
Benchmark ID	HSE.9.1
Benchmark Details	All chemicals and hazardous substances shall be properly labeled and stored in secure and ventilated areas and disposed of in a safe and legal manner, in accordance with applicable laws and international standards.
Finding Details	There are no secondary containments equipped for at least 20 chemical containers (containing oil, spot lifter spray way, paint) at the machinery room, sewing section (factory A), washing room (factory B).
Recommendation for Immediate Action	Equip secondary containments for chemical containers at place where chemicals are stored or used.
Compliance Classifications	Immediate Action Required
Local Law	Law on Chemicals (No. 06/2007/QH12), Article 37
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 observation, it is noted that: 1) The waste bins at the restrooms are the normal one without full cover to ensure the sanitation; 2) Workers have to buy toilet papers by themselves instead of being provided by the factory; 3) The food samples are not kept at least 72 hours as per applicable standard. They are kept 24 hours as reported by the in-charge person according to the legal requirements. In addition, the food samples are stored at 5 degrees Celsius instead of being store from and below 4 degrees Celsius as applicable standard.
Recommendation for Immediate Action	1) Equip cover for waste bins to ensure the sanitation; 2) Provide toilet papers for all employees; 3) The food samples are kept at least 72 hours and maintained with cooling temperature for storing from and below 4 degrees 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	1) Some of electrical wires in the machinery room (factory A) and electric station are connected by tape; 2) Flammable materials (fabrics and materials) are stored under electric tray and close to electrical panels in the cutting area.
Recommendation for Immediate Action	1) All wires must have proper industrial connections 2) Flammable materials must not be stored under electric trays, or close to electrical panels
Compliance Classifications	Immediate Action Required
Local Law	1) Decree (No. 136/2020/ND-CP), Article 5; 2) Law on Fire Prevention and Fire Fighting (No. 27/2001/QH10), Article 14

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, it is noted that: 1) The factory does not mark the traffic lanes and walk paths outside the factory; 2) Sewing workers adjust plexi-glass of sewing machines which do not have full function to protect worker's eyes; 3) There is a grinding machine at machinery room (factory B) without any cover to minimize the risk
Recommendation for Immediate Action	1) Mark the traffic lanes and walk paths outside the factory; 2) Provide training for sewing workers not to adjust plexi-glass of sewing machine; 3) Provide cover for the grinding machine.
Compliance Classifications	Immediate Action Required
Local Law	1) N/A; 2, 3) Law on occupational safety and hygiene (No. 84/2015/QH13), Article 16
Benchmark ID	HSE.4.1
Benchmark Details	Employers shall at all times be in possession of all legally required and valid permits and certificates related to health, safety, and environmental issues, such as: Purchase and storage of chemicals; Fire safety inspections; Machinery inspections; Waste disposal; Environmental licenses/permits; Sanitation permits, including those required for canteens; and Vehicle inspection and driver permits for all employer provided transportation.
Finding Details	The factory changes a part of parking area into carton storage (80 square meters and 283 cubic meters) that has changes in size, dangers posed by fire, explosion and toxic hazards and firefighting-related conditions. However, the factory has not updated the fire prevention plan as legally required.
Recommendation for Immediate Action	Update carton storage (around 80 square meters) or place has changes in size, dangers posed by fire, explosion and toxic hazards and firefighting-related conditions in approved fire prevention plan.

Compliance Classifications	Immediate Action Required
Local Law	Decree (No. 136/2020/ND-CP), Article 19
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.
Finding Details	Three used chemical containers are stored in the maintenance room, instead of being stored in the designated hazardous waste storage. The factory has corrected this implementation on the first day of the assessment.
Recommendation for Immediate Action	Store empty chemical containers at the designated hazardous waste storage.
Compliance Classifications	Immediate Action Required
Local Law	Circular (No. 02/2022/TT-BTNMT), Article 35
Benchmark ID	HSE.20
Benchmark Details	Employers shall establish the number of toilets required under applicable laws within reasonable distance of the workplace. In addition, the following should also be considered: number of toilets based on number of workers, privacy for each individual and gender, accessibility and hygiene.
Finding Details	Three doorknobs of female toilets are out of order.
Recommendation for Immediate Action	Repair female toilet doorknobs and ensure an internal management tracking system is in place (IE: that a cleaning staff understands and confirms the internal processes for maintaining and privacy regarding personal hygiene.)
Compliance Classifications	Immediate Action Required

Local Law	N/A
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	There is a maintenance staff who does not have full protection equipment when working at factory roof.
Recommendation for Immediate Action	Provide full protection equipment for employees who work at height (over 2 meters).
Compliance Classifications	Immediate Action Required
Local Law	Law on occupational safety and hygiene (No. 84/2015/QH13), 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	20 chemical containers (containing oil, spot lifter spray way and paint) do not have Material Safety Data Sheet (MSDS) at the machinery room, sewing section (factory A), washing room (factory B).
Recommendation for Immediate Action	Ensure that MSDSs posted at places where chemicals are stored or used. MSDSs (including CAS number) should be provided with full information.
Compliance Classifications	Immediate Action Required
Local Law	Law on Chemicals (No. 06/2007/QH12), Article 29; Decree (No. 113/2017/ND-CP), Article 24; Decree (No. 113/2017/ND-CP), Article 1

Benchmark ID	HSE.7
Benchmark Details	Workers shall be provided at no cost with all the appropriate and necessary personal protective equipment (e.g. gloves, eye protection, hearing protection, respiratory protection) to effectively prevent unsafe exposure (e.g. inhalation or contact with solvent vapors, noise, dust) to health and safety hazards, including medical waste.
Finding Details	10 sewing workers do not wear caps when working at sewing section (factory A). The manager explained that they were new workers so they did not have caps. In addition, the workers have to buy face masks by themselves to wear during their workdays as required to wear PPE by the factory.
Recommendation for Immediate Action	Ensure that all new sewing workers are provided caps and informed on wearing them as legally required Provide face masks for all employees free of charge
Compliance Classifications	Immediate Action Required
Local Law	Circular (No. 04/2014/TT-BLDTBXH), Article 5
Benchmark ID	HSE.17.1
Benchmark Details	Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains.
Finding Details	The factory does not provide chair with back support for workers who have to sit e.g. sewing workers (only in factory A), QC workers, warehouse workers, etc. In addition, 20 workers were not who have to stand during working time e.g. iron workers, QC workers do not use anti-fatigue mats factory A and B.
Recommendation for Immediate Action	Provide chair with back support for workers who have to sit e.g. sewing workers at factory A, QC workers, warehouse workers. Ensure that the workers use anti-fatigue mats when working.
Compliance Classifications	Immediate Action Required

Local Law	N/A
Hours Of Work (HOW)	
Benchmark ID	HOW.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning hours of work, public holidays and leave.
Finding Details	The morning meeting (before official time-in at 7:30 am) is held for 5 - 10 minutes in 3 - 6 days a week. However, these meeting times are not added into working hours to pay as legally required.
Recommendation for Immediate Action	Ensure that morning meeting time is counted as working hours and paid as legally required.
Compliance Classifications	Immediate Action Required
Local Law	Decree (No. 145/2020/ND-CP), Article 58
Benchmark ID	HOW.22.3
Benchmark Details	Time worked by all workers, regardless of wage system, shall be fully documented by time cards or other mechanical or electronic recording systems.
Finding Details	The factory uses on-site contractors for security, canteen and cleaning services. -There are no sufficient documents of attendance records provided for review during the assessment time, except for attendance records of cleaning service from May to July 2022. However, these attendance records do not show the detailed time-in/out to cross check the payroll records accordingly - The security employees and canteen employees use manual time records without specific time-in and time-out; instead of using timecards or other mechanical or electronic recording systems. Thus, the information regarding working hours could not be verified for contracted workers. (There are 8 canteen staff, 11 security and 12 cleaning employees working at the time of the assessment)

Recommendation for Immediate Action	Ensure that factory has a system to follow compliance of working conditions of canteen, security and cleaning employees including keeping working hours records and relevant documents and provide timecards, other mechanical or electronic recording systems for security and canteen teams.
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 worker interview, it is noted that the security team (from an on-site contractor) works 12 hours a day for 30 days within a month without any rest days.
Recommendation for Immediate Action	Provide rest days for security team as legally required.
Compliance Classifications	Immediate Action Required
Local Law	Labor code (Law No. 45/2019/QH14), Article 111

