

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

30 Aug 2022



Factory Information

FLA Affiliates	Russell Brands/Fruit of the Lo
Country	Mexico
Number of Workers	1401

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)	1
Employment Relationship (ER)	8
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	13
Nondiscrimination (ND)	2

Assessment Information

Assessor	VeLar International
Assessment Date	30 Aug 2022

Assessment Purpose	
--------------------	--

ASSESSMENT RESULTS

Compensation (C)

Benchmark ID	C.9.3
Benchmark Details	Employees shall be compensated for overtime hours at such premium rate as is legally required in the producing country
Finding Details	The assessment reviewed time and payroll records from 55 employees for the periods of July 17th to August 17th, 2022 and November 15th to December 15th, 2021. During this review, the assessment found that the factory does not calculate the overtime hours rate correctly. The Federal Labor Law establishes that the overtime rate must be 200% of the employees' salary per hour and defines salary as the full set of employee "percepciones," or pay components. This means that besides the daily wage, components such as the production, punctuality, or attendance bonus must be included in the base wage that will be used for the 200% overtime wage calculation. Currently, the factory only considers employees' daily wage and does not include all other salary components when calculating the overtime rate.
Recommendation for Immediate Action	Ensure to include all salary components in the overtime wage.
Compliance Classifications	Immediate Action Required
Local Law	Federal Labor Law Article 84

Employment Relationship (ER)

Benchmark ID	ER.17.5
--------------	---------

Benchmark Details	Employers shall have in place procedures to track the number, types, and timing and resolution of grievances, and to communicate the resolution of grievances to the workforce.
Finding Details	Employees have not received training on the factory's grievance system protocols, how the grievance system works, or the company's no-retaliation policy for using the grievance system.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.18.2
Benchmark Details	Employers shall ensure managers and supervisors are fully familiar with the workplace disciplinary system and in applying appropriate disciplinary practices.
Finding Details	The factory did not present any evidence that supervisors and managers are trained in disciplinary protocols, non-discrimination, or anti-harassment and abuse policies/procedures in the last 12 months.
Recommendation for Immediate Action	Deliver regular training to supervisors and managers on the factory's disciplinary protocols, non-discrimination, and anti-harassment and abuse policies/procedures.
Compliance Classifications	Immediate Action 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) The factory's overtime policy does not mention that overtime must be on a voluntary basis and that employees are free to refuse overtime, nor does the factory's onboarding training mention this information. (2) The factory has an anti-child labor policy and protocols for avoiding child labor; however, these documents lack a remediation protocol in the case that child labor is detected in the factory.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.18.1
Benchmark Details	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).
Finding Details	Local law requires the factory's Rules Handbook to include the number of shifts; the working hours of each shift; and entrance, exit and resting hours, among other elements. The factory's practices in these areas have changed since the last Internal Rules Handbook update; and the Handbook has not been updated to reflect the new and current practices.
Recommendation for Immediate Action	Update the Internal Rules Handbook to reflect current practices and requirements.

Compliance Classifications	Immediate Action Required
Local Law	Federal Labor Law Art. 422 to 425.
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 is missing a written policy/procedure to encourage and implement ongoing training to develop and broaden employees' knowledge and skills so they can advance in their careers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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	The factory did not provide any evidence to demonstrate how employees are informed about salary increments and how they are calculated.
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	(1) Local law requires labor contracts to include, among other items, the employee's designated beneficiary who will receive final payouts in case of death and the company's privacy policy for personnel data. Labor contracts at the factory lack this information - the company has begun to sign contract addendums with workers to confirm this information, but the process has not been completed and there are still employees without this signed document. In addition, since this information is still not included in the basic contract, there are also new employees who have joined without signing these additional clauses.
Recommendation for Immediate Action	Update the basic labor contract with all legal requirements, including employee's designation of beneficiaries and the company's privacy policy for personnel data.
Compliance Classifications	Immediate Action Required
Local Law	Federal Labor Law Article 25 points I and X. Federal Law for Protection of Personal Data in Particulars Possession Article 28.
Benchmark ID	ER.18.3.2
Benchmark Details	Workers have the right to participate and be heard in any disciplinary procedure against them.

Finding Details	The factory's disciplinary procedures allow employees to lodge their disagreements with or objections to a disciplinary action without retaliation. During document review, the assessment noted that the factory's forms for recording discipline include a space for the employees' complaints. In several cases, the assessment noted that employees lodged complaints or disagreements regarding disciplinary actions against them, but no further analysis or investigation was conducted by the Human Resources Department or any other management staff.
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	The company has developed a Freedom of Association Policy that clearly explains employees' rights and the company's commitment to respect them. However, the policy has not been posted or communicated to the employees. In addition, no training on Freedom of Association has been delivered to the employees.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required

Local Law	
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	The first risk assessment was approved by the relevant legal authority on December 21st, 2020; however, the company has since made modifications to the factory's firefighting piping system. This renovated piping system requires the authorities' approval.
Recommendation for Immediate Action	Present the renovated firefighting piping system to the proper authority to obtain approval.
Compliance Classifications	Immediate Action Required
Local Law	Point 5.11 of the Mexican NOM-002-STPS-2010
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 factory is missing a drip pan in the chemicals area.
Recommendation for Immediate Action	Install an anti-spillage drip pan in all areas with chemical storage.

Compliance Classifications	Immediate Action Required
Local Law	Point 5.10 of the Mexican NOM-005-STPS-1998
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	The assessment observed that toilets in the facility were dirty and lacked soap for hand washing.
Recommendation for Immediate Action	Ensure to keep toilets in working condition, clean, and stocked with required supplies.
Compliance Classifications	Immediate Action Required
Local Law	Ley Federal del Trabajo Artículo 18 Inciso IX.
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 electrical grounding assessment and the electrical system diagram are incomplete. They are both missing Building Three of the factory and the hazardous waste warehouse.
Recommendation for Immediate Action	Complete the electrical system diagram and the electrical grounding assessment.
Compliance Classifications	Immediate Action Required

Local Law	Point 5.3 of the Mexican NOM-029-STPS-2011 and point 5.3. of the Mexican NOM-022-STPS-2015.
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	(1) During the facility tour, the assessment noted that the LP gas system required major maintenance and that the manometer and safety devices were not working properly. (2) The lights in the production area lack falling protection to avoid accidents and security risks.
Recommendation for Immediate Action	(1) Provide maintenance to the LP gas system to avoid future risks. (2) Install fall protection for the lights in the production area.
Compliance Classifications	Immediate Action Required
Local Law	1.- Point 10.3 of the Mexican NOM-005-STPS-1998. 2.- Point 5.10 of the Mexican NOM-025-STPS2008
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) The factory has a Health and Safety Committee as required by local regulation; however, the factory did not present the Committee's annual program of activities. By law, this program should include all required activities and duties of this committee. In addition, while reviewing the facility inspection records, the assessment noted that the records reflect only minor noncompliances, while the most serious health and safety risks or violations were not detected or reported. (2) The factory's machinery risk assessment is incomplete. The assessment is missing the Specific Health and Safety Program for Machinery Operation and Maintenance, along with the Machinery Preventive Maintenance Program.

Recommendation for Immediate Action	(1) Develop a complete annual program for Health and Safety Committee's activities and ensure to perform thorough facility inspections that detect and report all risks and violations. (2) Complete the Machinery Risk Assessment for all machines in the factory. Develop the Specific Health and Safety Program for Machinery Operation and Maintenance. Develop the Machinery Preventive Maintenance Program.
Compliance Classifications	Immediate Action Required
Local Law	1.- Points 5.5 and 5.6 of the Mexican NOM-019 STPS-2011. 2, 3, 4.- Points 5.2, 5.3 and 7.2 of the Mexican NOM-004-STPS-1999.
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	The assessment observed that there were 30 toilets available for 800 employees, of which 7 were out of service due to maintenance activities. The assessment observed that 30 toilets was an insufficient number for the factory's size, as during the assessment the toilets were fully occupied at nearly all times.
Recommendation for Immediate Action	Ensure to provide enough toilets to accommodate the factory's workforce.
Compliance Classifications	Immediate Action Required
Local Law	Ley Federal del Trabajo Artículo 18 Inciso IX.
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	External contractors perform work in confined spaces at the factory. The company has not developed a security procedure or safety checklist to ensure these tasks are completed under secure conditions and with required PPE.
Recommendation for Immediate Action	Develop a Health and Safety Checklist for work performed in confined spaces.
Compliance Classifications	Immediate Action Required
Local Law	Point 5.3 of the Mexican NOM-033-STPS-2015.
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	During the document review and the factory tour, the assessment noted that MSDS for chemicals such as paints and solvents were missing.
Recommendation for Immediate Action	Keep MSDS available for all chemicals used; ensure that MSDS are in local language/s.
Compliance Classifications	Immediate Action Required
Local Law	Point 8 a) of the Mexican NOM-005-STPS-1998
Benchmark ID	HSE.30.2
Benchmark Details	The health, safety, and environmental policies shall contain the framework for a comprehensive health, safety, and environmental management system within which the following are clear and regularly tested and reviewed; procedures for reporting death, injury, illness and other health and safety issues (for instance, near-miss accidents) and environmental emergencies

Finding Details	The assessment reviewed the factory's injury and accident investigation records and noted that the factory does not conduct effective root cause analysis to avoid recurrence. The records reviewed indicated employee distraction or neglect as the root cause, without evidence of investigation into other factors.
Recommendation for Immediate Action	Investigate all possible factors involved in injuries and accidents to detect the accurate root causes and avoid recurrence.
Compliance Classifications	Immediate Action Required
Local Law	Points 5.5 and 5.6 of the Mexican NOM-019 STPS-2011
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	The risk assessment used to determine PPE needs in the factory does not encompass all job positions/functions within the factory.
Recommendation for Immediate Action	Update the PPE risk assessment to include all factory positions and roles/responsibilities.
Compliance Classifications	Immediate Action Required
Local Law	Points 5.2 and 5.3. of the Mexican NOM-017-STPS-2008
Benchmark ID	HSE.14.2
Benchmark Details	Workers shall receive training in the proper use and safe operation of machinery, equipment and tools they use.

Finding Details	External contractors perform work at heights in the factory. The company has not developed a security procedure or safety checklist to ensure that these tasks are completed safely and with required PPE.
Recommendation for Immediate Action	Develop a procedure for working at heights in accordance with local law.
Compliance Classifications	Immediate Action Required
Local Law	Points 5.1 and 5.3 of the Mexican NOM-009-STPS-2011
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 has not completed the legally-required ergonomic risk analysis in materials handling to develop preventive measures and avoid ergonomic harms to employees.
Recommendation for Immediate Action	Develop and conduct the ergonomic risk analysis in accordance with legal requirements.
Compliance Classifications	Immediate Action Required
Local Law	Norma Oficial Mexicana 036-STPS-2018 cláusula 5.1.
Nondiscrimination (ND)	
Benchmark ID	ND.4
Benchmark Details	Employers may not request the disclosure of any personal, non-job related information during the application, recruitment, or hiring process, including but not limited to gender, race, religion, disability, sexual orientation, nationality, political opinion, social group, ethnic origin, or marital status.

Finding Details	In the interview records for potential employees, it was noted that the facility asks applicants about their marital status during the application process. The assessment did not identify any reports of discrimination based on marital status.
Recommendation for Immediate Action	Avoid any questions not related to the job during the hiring process.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	ND.3
Benchmark Details	Recruitment and employment policies and practices, including job advertisements, job descriptions, application and interview questions and job performance/evaluation policies and practices shall be free from any type of discriminatory bias.
Finding Details	(1) The company requires that applicants have no criminal record for positions that are considered critical for supply chain security. Local law limits employers to imposing this requirement only on security personnel, but the company also includes warehouse personnel. (2) The company only hires applicants who are at least 18 years of age. However, local law allows the hiring of applicants who are at least 15 years of age with a parent's or union's authorization, and over 16 years old without such authorization, as long as the company follows specific requirements on hiring and working conditions.
Recommendation for Immediate Action	Avoid any discriminatory practice during the hiring process and give equal opportunities to all applicants, based only upon their skills and knowledge.
Compliance Classifications	Immediate Action Required
Local Law	National Law for Criminal Enforcement in article 27, section IV. Federal Labor Law article 3.

