

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

21 Jul 2022



Factory Information

FLA Affiliates	Amer Sports,KMD Brands,Patagonia
Country	Vietnam
Number of Workers	1979

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

Child Labor (CL)	1
Compensation (C)	5
Employment Relationship (ER)	19
Freedom Of Association And Collective Bargaining (FOA)	3
Harassment Or Abuse (H/A)	2
Health, Safety And Environment (HSE)	12
Hours Of Work (HOW)	5

Assessment Information

Assessor	Openview - Vietnam
Assessment Date	21 Jul 2022
Assessment Purpose	

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	There are no personal profiles of all outsourced workers (24 security guards; 19 canteen staffs and 431 production workers) provided for reviewing during the assessment date. Due to a lacking of personal profiles provided for review, assessors are unable to verify the age of all outsourced workers accurately. There is no signal of the child or juvenile workers noted or reported among all those outsourced workers.
Recommendation for Immediate Action	Maintain the personal profiles of all outsourced workers to ensure that all workers are above the age of 15.
Compliance Classifications	Immediate Action Required
Local Law	N/a

Compensation (C)

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	1. The fixed allowance - job performance allowance (from VND30,000 to VND1,000,000/month) is not added to calculate and pay for mandated insurance as per legal requirements. 2. 19 canteen supplier staff are not paid for Social Insurance from April to June 2022, and not paid for Health Insurance, and Unemployment Insurance for May 2022. 3. No record of mandated insurance contribution for outsourced workers (24 security guards and 431 production outsourced workers) is provided for review on the assessment date. 4. Six selected workers who receive retirement pensions when reaching retirement age and not covered by compulsory insurance are not paid for compensation of insurance fees by 21.5% of their basic wages as required by law.
Recommendation for Immediate Action	Pay the compulsory insurance fees and compensation properly to all workers.
Compliance Classifications	Immediate Action Required
Local Law	Circular No. 06/2021/TT-BLĐTBXH, Article 1, Point 26 and Vietnam Labour Code No. 45/2019/QH14, Article 168, Point 3.
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	1. All outsourced production workers are not paid the compensation for Holidays in January 2022 (January 31); February 2022 (February 1 & 2 & 3 & 4); April 2022 (April 10 & 30). The factory just pays for regular working days for these outsourced workers. Note: There are 431 outsourced production workers (104 workers from a manpower agent named Thoi Dai Labor Trading Service Co., Ltd and 327 workers from a manpower agent named Hung Thinh Phu Co., Ltd) working at the facility on the assessment date. The factory uses the outsourced production workers from these manpower agents from October 2021 till the assessment date. 2. It is noted that fixed allowance - job performance allowance (from VND30,000 to VND1,000,000/month) is not added to calculate and pay for overtime compensation of workers. As the result, workers are not paid sufficient overtime compensation during the reviewed period from July 2021 to June 2022.

Recommendation for Immediate Action	1. Pay holiday for all workers as per law. 2. Re-calculate and pay the overtime compensation properly to workers.
Compliance Classifications	Immediate Action Required
Local Law	Decree 145/2020/ND-CP, Article 55. Vietnam Labor Code No. 45/2019/QH14, Article 112.
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	The attendant allowance is not provided sufficiently to workers as per the factory's wage and benefits policy. One out of 35 sample selected workers was not provided with attendant allowance (VND300,000/month) in May 2022 even though the workers worked full 25 working days in a month. The factory explains that the worker left the factory at 15:59 (early 1 minute than finishing normal working hours) on May 6, 2022. Thus, no attendant allowance is provided. However, the factory does not regulate this in the factory's relevant policies.
Recommendation for Immediate Action	Provide attendant allowance to workers as the wage and benefits policy.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code , Article 103
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	<p>The final payment is not paid to the resigned workers within the legally required period as below: a) Factory does not maintain the termination decision for all resigned workers to prove that the factory provides the final payment for these workers within 14 working days from the termination date. Factory explains that they just issue one copy of the termination decision and provide it to resigned workers, they do not maintain any copy by themselves. b) Two out of 10 sampled selected resigned workers, who are not present at work without acceptable excuses for at least five consecutive working days, are not provided with final payment as required by law. The factory sends the written notification to workers to come to the factory to receive their final payment and workers are not paid for severance payment if they do not come to the factory within seven working days from the notification date. The factory also does not manage to check if resigned workers received the notification or not. Note: As a general practice, all resigned workers (except workers who are not presented at work without acceptable excuses) are paid the final payment by cash within seven working days following the termination date.</p>
Recommendation for Immediate Action	<p>Monitor and pay the final payout for workers within 14 working days following the termination of an employment contract, both parties shall settle all payments in respect of the rights and interests of each party.</p>
Compliance Classifications	<p>Immediate Action Required</p>
Local Law	<p>Vietnam Labor Code No. 45/2019/QH14, Article 48.</p>
Benchmark ID	<p>C.3.1.3</p>
Benchmark Details	<p>Where probationary employment is legally allowed, no workers shall work more than three months in this employment category.</p>
Finding Details	<p>One out of 30 sample selected workers in the sewing section was applied 31 days for probation instead of the maximum 30 days as per law. The factory does not have the 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 time as per local law.</p>

Recommendation for Immediate Action	Ensure the probation time of workers follows the local law.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code, Article 25

Employment Relationship (ER)

Benchmark ID	ER.14.1
Benchmark Details	Employers shall use standard contract language with employment agencies or intermediaries that specifically imparts power to employers to directly pay wages to migrant/ contract/ contingent/ temporary workers and ensures equality of compensation and workplace standards as set under the FLA Workplace Code and national laws and regulations.
Finding Details	The outsourced production workers are paid wages and benefits through labor agencies instead directly by the factory. The factory uses the outsourced workers for production through manpower agents: Hung Thinh Phat Co., Ltd under contract No. 01042022 - HTP - 01 - 04 - 2022 (signed on April 1, 2022 and valid till April 24, 2023); another agency is Thoi Dai Co., Ltd, under the contract No. 02/HĐ/TĐ - SJ/2022 (signed on April 1, 2022 and valid till April 24, 2023). A package of service fees is paid by the factory to manpower agents and the wages and benefits are paid to these outsourced workers without monitoring by the audited factory (Sungjin Inc Vina Co., Ltd).
Recommendation for Immediate Action	Pay wage and benefits directly for all workers, including outsourced workers.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 94.
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	1. It is noted that major contents of employment contracts are insufficient and improperly cited: a) Factory does not include the phone number and email (if any) of workers; Email (if any) of the employer; Other benefits provided to workers (childcare allowance, housing allowance, attendant allowance) in the content of labor contracts as per law required. b) The regular working hours indicate in the labor contracts is from 7:20am to 16:00pm with break time from 11:30am to 12:30pm or 11:50am to 12:50pm are not reflected the current working hours of the factory which is from 7:20am to 16:00pm with 40 minutes for lunch break time from 11:50am to 12:30pm) c) The legal references indicate in all labor contracts are Decree No. 05/2015/ND-CP and Labor Code No. 10/2012/QH13) which are out of date since January 1, 2021 and February 1, 2021. d) Workplace is not indicated details in the labor contracts. The factory indicates the workplace is at "Binh Phu, Binh Chuan, Thuan An, Binh Duong" instead of being detailed as " at Sungjin Inc Vina Co., Ltd located in Binh Phu Quarter, Binh Chuan Ward, Thuan An City, Binh Duong Province, Vietnam". 2. There are no labor contracts (between workers and labor agencies) for all outsourced workers (24 security guards; 19 canteen staffs and 431 production outsourced workers) provided for reviewing on the assessment.
Recommendation for Immediate Action	(1) Ensure to include all required information in the labor contracts per legal requirement. (2) Ensure all workers including outsourced contracted workers sign labor contracts with the manpower suppliers or the factory.
Compliance Classifications	Immediate Action Required
Local Law	1. Circular No. 10/2020/TT-BLDTBXH, Article 3. 2. Vietnam Labor Code No. 45/2019/QH14, Article 56.

Benchmark ID	ER.1.2
Benchmark Details	Employers shall assign responsibility for the administration of human resources to a clearly defined and adequately qualified staff member or staff members and ensure workers at all levels receive communication and training about existing policies and procedures or any revisions.
Finding Details	1. There is no ongoing training provided for workers on FLA's Code elements and Employment functions. 2. The factory does not clearly define and assign staffs who are responsible for social compliance at the workplace regarding all FLA's Code elements and Employment functions.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a
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	There is no specific training provided for relevant supervisors that cover all FLA's Code elements and Employment Functions.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a
Benchmark ID	ER.17.1

Benchmark Details	Employers shall have a clear and transparent system of worker and management communication that enables workers to consult with and provide input to management. This might include suggestion boxes, worker committees, designated spaces for worker meetings, union representatives, and meetings between management and workers' representatives.
Finding Details	The grievance procedure is established. However, the grievance procedure has not defined the method that allows a direct settlement by worker and immediate supervisors in the factory.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a
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	<p>1. There is no procedure in place to handle the case of non-discrimination violations found in the factory, which includes the steps to discipline for violations related to non-discrimination policy.</p> <p>2. There is no procedure in place to handle the case of forced labor found in the factory (if any) including steps to discipline for violation related to forced labor policy.</p> <p>3. There is no policy and procedures for retrenchment to govern all aspects as FLA benchmarks.</p> <p>4. The factory has not established job descriptions for all positions of the factory.</p> <p>5. A child labor remediation procedure is established, the remediation procedure is too simple, it does not cover the legal requirement to have a representative and does not cover other scenarios of child labor such as workers who unexpectedly visit the factory (not only during the hiring process).</p> <p>6. The factory does not have any written policy and procedure indicating that upon expiration of the employment contracts with a female employee who is pregnant or nursing a child under 12 months of age, the conclusion of a new employment contract shall be given priority.</p>
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Vietnam Labor Code, Article 137
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	1. The factory has not yet established a procedure on labor discipline to guide how to handle labor discipline following the local law and FLA benchmarks. 2. The Internal Labor Regulation issued on May 4, 2022 and registered with the local authority on May 13, 2022 is not included the key contents as per law such as: a person with authority to claim compensation; Migrant employees (experts) are entitled to one Traditional public holiday and one National Day of their country as per legal laws; Decontamination and disinfection at the workplace. Note: There are a total of 17 foreign managers (including 16 Korean and 01 Chinese) working at the facility on the assessment date.
Recommendation for Immediate Action	Update all required contents in the factory labor rules to implement.
Compliance Classifications	Immediate Action Required
Local Law	Decree No.145/2020/ND-CP, Article 70.
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	There are no written policies and procedures on personnel development that encourage ongoing training with the goal of raising or broadening workers' skills so they can advance in their careers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a
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	1. There are no policies and procedures on performance reviews that include steps and processes, linkages to job grading, nondiscrimination, written feedback, and compliance with the legal requirement. The factor only has the form designed to evaluate new workers for probation and contracts. 2. There are no records to prove that the factory conducts performance reviews to increase wages for all workers in April, July, and October each year as per the factory's wage and benefits policy. The factory only provides the list of employees who increased wages in April 2022 and June 2022 for review. The factory does not conduct performance reviews to increase wages in October 2021 due to the impact of Covid-19. However, there are no agreements or meetings conducted between the factory representative, Trade Union, and workers for the implementation.
Recommendation for Immediate Action	Review to increase wages for workers as per factory policy.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 102.
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	There are no written policies and procedures regulate for promotion, demotion, and job re-assignment that outline the criteria, demonstrate linkages to job grading, prohibit discrimination, or prohibit demotion or job reassignment as a form of penalty or punishment to apply in the factory.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a
Benchmark ID	ER.9.1
Benchmark Details	Employers shall hire contract/contingent/temporary workers only if such hiring is consistent with the national law of the country of production.
Finding Details	There are 431 outsourced production workers (104 workers from a manpower agent named Thoi Dai Labor Trading Service Co., Ltd and 327 workers from a manpower agent named Hung Thinh Phu Co., Ltd) working in the Production Workshop as Sewing, Inspecting, Packing, Cutting, Pressing, Warehouse workers. However, these jobs are not included in the List of jobs entitled to apply for outsourcing as legal requirements. Note: The factory uses the outsourced production workers of these manpower agents from October 2021 till the assessment date.
Recommendation for Immediate Action	Stop the practice of using outsourced workers not according to the legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	Decree No.145/2020/ND-CP, Annex 2.
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. The factory only provides regular communication to workers on some FLA's code elements and Employment functions such as Hours of Work, Leave, Wages, Benefits, Labor Contracts, Insurance, Grievance, Disciplinary, and HSE. Regular communication does not include Non-discrimination, Child labor, Forced Labor, Harassment and Abuse, and Termination.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a
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. Relevant records of workers' complaints/suggestions from July 2021 to April 2022 are not kept available for review. The factory explains that it is lost during the handover process from the old and new responsible person. 2. The grievance handling results are not tracked and followed up sufficiently. For instance, there is one complaint related to the uniform provided and one complaint related to the working temperature in May 2022. The factory has conducted the meeting with relevant parties but results and records of improvement are not kept and provided for review. Another worker complained in the Resignation Request Form that "he can't work with the line manager of the Packaging section. However, there is no follow-up on that worker's complaint.

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	The severance allowance calculated and provided to resigned workers is not correct: a) The probation time is not included in the actual working period to calculate the severance allowance for all resigned workers. The factory cannot provide the number of affected resigned workers to the assessors on the assessment date. b) One out of 10 sample selected resignation workers who have six months of maternity leave from February 13, 2018 to August 12, 2018 are not paid for the severance allowance as being required by law.
Recommendation for Immediate Action	Pay the severance allowance for the period time not participate in unemployment insurance for all eligible workers such as probation period as the legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 46 and Decree No. 145/2020/ND-CP, Article 8, Point 3.
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 has not included all FLA's Code elements such as employment relationship, non-discrimination, harassment or abuse, forced labor, child labor, and Employment functions such as recruitment, hiring, personnel development, industry relation, grievance system, termination, and retrenchment. The factory does not have an orientation training material in place for review. There are only attendance sheets of orientation training with some subject titles noted for factory rules, fire and chemical emergency response, quality policy, and C-TPAT.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a
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. The factory does not establish policies and procedures to implement an annual process with inputs from workers to review all policies, and procedures used in the factory. 2. The Collective Bargaining Agreement (CBA) is approved on June 29, 2020 with agreements related to wages, benefits, working hours, and working conditions. However, workers are not consulted or integrated into the decision-making, only 45 supervisors and leaders from each department signed to agree with the CBA before registration. There is no record provided for review which proves that trade union representative consulting with workers

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a
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.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a
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 factory does not conduct labor disciplinary handling as the legal requirement: a) The factory does not establish records of labor rules violations and inform to Trade Union Representative when worker's violations are discovered; b) The factory does not notify the required participants for the labor disciplinary meeting at least five days before the meeting is conducted. The factory conducts the disciplinary meeting on the same day when labor rule violation happens. c) The disciplinary meeting minutes are not indicated in detail which points of Internal Labor Rules are violated. d) Two sampled selected workers who applied the written reprimand measure for their violations. However, one of them is a pregnant worker and another worker is nursing a child under 12 months who are exempt from labor discipline as per law.
Recommendation for Immediate Action	(1) Conduct the meeting for labor discipline as per law and keep all relevant records in files when handling the labor discipline. (2) Not handle the labor discipline against workers who are pregnant and nursing children less than 1 year old.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 122; Decree No. 145/2020/NĐ-CP, Article 70.
Benchmark ID	ER.3.3
Benchmark Details	Workers should be provided with written documentation that substantiates all the issues covered in orientation briefings.
Finding Details	The factory does not provide written documentation that substantiates all the issues covered in orientation briefings for workers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a

Freedom Of Association And Collective Bargaining (FOA)

Benchmark ID	FOA.17
Benchmark Details	Employers shall bargain with any union that has been recognized by law or by agreement between the employer and that union, provided such agreement does not contravene national law, as a, or the exclusive, bargaining agent for some or all of its workers.
Finding Details	The factory has not updated the contents of the Collective Bargaining Agreement (CBA) and negotiated with all employees as per the law required. The CBA issued on June 29, 2020 still indicates that the payment is on 8th of the following month instead of on 10th of the following month as current practice.
Recommendation for Immediate Action	Update the Collective Bargaining Agreement (CBA) with the current practices of the factory.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 82
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	1. The number of employees and employers representatives who participated in the social dialogue conducted on May 28, 2022 is not sufficient. There are one instead of at least three representatives for the employer; eight instead of at least 24 representatives of employees participated in the social dialogue. 2. The policy on Freedom of Association is developed and in place. However, there is no procedure to guide how to establish the Collective Bargaining Agreement (CBA) which follows the local law and FLA benchmarks.

Recommendation for Immediate Action	Conduct regular social dialogue with all worker representatives as per local law.
Compliance Classifications	Immediate Action Required
Local Law	Decree No.145/2020/ND-CP, Article 38.
Benchmark ID	FOA.2
Benchmark Details	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.
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	
Compliance Classifications	
Local Law	N/a

Harassment Or Abuse (H/A)

Benchmark ID	H/A.7
Benchmark Details	Employers shall not restrain the freedom of movement of workers, including movement in canteens, during breaks, using toilets, accessing water, or accessing necessary medical attention, as a means to maintain labor discipline.
Finding Details	Workers are required to use the gate pass form and under process to get at least two signatures of line leader and section manager for permission to leave the factory during the lunch break time (from 11:50 – 12:30). Factory explains that gate pass forms are required to use during lunch break time due to C-TPAT (Customs-Trade Partnership Against Terrorism) requirement.
Recommendation for Immediate Action	Ensure that worker are free for movement in their unpaid time.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 8.
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 detailed procedure guidance for disciplinary of supervisors, managers, and workers who engage in any form of harassment and abuse. There is only the regulation for disciplinary on sexual harassment indicated in the factory labor rules.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required

Local Law	N/a
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 factory does not establish procedures for waste classification/management, wastewater emergency incident responses, and air emission management.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a
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. All two emergency exit doors in the pressing room, and one out of two emergency exit doors in the sample room are sliding doors instead of open-outward doors as legally required. There is no locking devices to keep these sliding doors open during working hours. One emergency exit door at finished good warehouse in workshop #1 is locked during the assessment.

Recommendation for Immediate Action	Change these sliding doors to open-outward emergency exit doors as required and ensure emergency exit doors are kept open during the working hours.
Compliance Classifications	Immediate Action Required
Local Law	QCVN 06:2021/BXD-CSXD, Article 3.2.3.
Benchmark ID	HSE.5.1.3
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 emergency lighting
Finding Details	Two out of six tested exit signs on the mezzanine of the material warehouse, and the 2nd floor of the finished goods warehouse are not illuminated.
Recommendation for Immediate Action	Monthly check and ensure exit signs are illuminated at all time.
Compliance Classifications	Immediate Action Required
Local Law	QCVN 02:2020/BCA, Article 2.1 and TCVN 3890-2009, Article 10.1.5.
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 alarm control panel in the security room is not fully functional. The error sign displays as "common trouble" and "auxiliary disconnect" during testing time. There are five out of seven fire alarms throughout the factory are out of order when being randomly tested, and one smoke detector at the canteen is damaged and has not been repaired.

Recommendation for Immediate Action	Ensure to check and repair the fire alarm control panels for emergency use.
Compliance Classifications	Immediate Action Required
Local Law	TCVN 3890:2009, Article 6.1.1
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	There are three emergency exit doors, two emergency staircases, five evacuation routes and three electrical panels at the material warehouse, finished goods warehouse, and packing areas in production workshop #2 are fully or partially obstructed by finished goods boxes, materials. In addition, the exit routes of at least five sewing and three finishing workers in production workshop are obstructed by tables and semi-products.
Recommendation for Immediate Action	Ensure all exit doors, emergency exit aisles are clearly marked and kept free from any obstruction for emergency events.
Compliance Classifications	Immediate Action Required
Local Law	Decree No. 136/2020/ND-CP, Article 11.
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.

Finding Details	<p>1. There is no internal traffic management procedure, no convex mirrors installed at the road corner for the workers to proactively check truck dangers on another side of the road. In addition, there is no marking for traffic lanes for vehicles and the walk-path for pedestrians. 3. There is no warning sign for forklift hazards at the material and finished goods warehouse, and no designated route for forklifts in the warehouse as per observation. 4. There are three forklift operators randomly selected during the site tour who are not trained on forklift safety training (group 3) and do not have an operation certificate as required by the local laws. 4. All three fabric spreading machines are not installed with sensor devices for safety reason. One grinding machine with the rotating part nearby packing section is not installed with a safety guard. All six observed punching machines and one edge-cutting machine with hot parts at production workshop #2 are not equipped with safety guards. 5. There is no lock-out/ tag-out (LOTO) program applied for equipment and machines implemented at the factory.</p>
Recommendation for Immediate Action	<p>1. Install convex mirrors at the road corners or blind points. 2. Mark traffic lanes for vehicles, route for forklifts in the warehouse, and the walk-path for pedestrians. 3. Post warning signs for forklift hazards at material and finished goods warehouse. 4. Train all workers about newly established policy and procedure. 5. Conduct sufficient training for forklift operators as legally required.</p>
Compliance Classifications	Immediate Action Required
Local Law	<p>1. Circular No. 51/2015/TT-BLDTBXH, Article 3.6.3. 2. The Law on Occupational Safety and Hygiene 2015, Article 16.</p>
Benchmark ID	HSE.4.1
Benchmark Details	<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>

Finding Details	Production building #3 with 2,073 square meters and production building # 2 with 935 square meters are changed from production purpose use to material warehouse and foam storage warehouse. However, there is no approval from the local authority for the change of building purposes. The factory has not obtained approved fire safety design and fire safety acceptance for the changes.
Recommendation for Immediate Action	Work with the local authority to obtain for the approved fire safety design and fire safety acceptance for those buildings with changing the use purposes.
Compliance Classifications	Immediate Action Required
Local Law	Decree 136/2020/ND-CP, Article 05 and 13.
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. There was no health check-up provided to workers in 2021 due to the affection of Covid-19. In addition, the factory does not follow up results of health check up to re-arrange jobs for workers with type No.3 or No.4 of health to ensure that they do not perform hazardous and heavy jobs as per required by law. In addition, there are 19 canteen staffs from food suppliers are not provided with sufficient health checkups. Their health check is missing cholera, dysentery, typhoid, hepatitis A and E and acute diarrhea tests. 2. The periodic test for surface water at Bung Cu stream (wastewater discharge point) is not sufficient according to the wastewater discharge permit approved on December 29, 2021. According to the environmental monitoring result issued on June 21, 2022, the "nitrat" parameter of surface water is not tested.
Recommendation for Immediate Action	(1) Conduct health check-up and based on the health check-up results to re-arrange jobs for workers as per legal requirement. (2) Conduct the waste water testing with all parameters required in the discharge permit.
Compliance Classifications	Immediate Action Required

Local Law	1. Law on Occupational Safety and Hygiene 2015, Article 21, Decision 1613/BYT-QĐ & Decree No. 155/2018/ND-CP, Article 5. 2. Law on Environmental Protection 2020, Article 47.
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 factory does not review OHS risk assessment once a year as legally required. The last risk assessment was conducted on September 9, 2020.
Recommendation for Immediate Action	Conduct the OHS risk assessment at least one per year for update to identify the risks and propose the remediation.
Compliance Classifications	Immediate Action Required
Local Law	Circular No. 07/2016/TT-BLDTBXH, Article 3.
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	1. The records for labor accidents are not kept as per law. There are no meeting minutes to announce the labor accident investigation, and no records of the worker testimony are kept in place. 2. The factory does not conduct root cause analysis in order to proactively propose actions to prevent accidents from re-occurring.

Recommendation for Immediate Action	Conduct the root cause analysis for the labor accidents, and keep all relevant records of labor accidents such as meeting records, and investigation records in place.
Compliance Classifications	Immediate Action Required
Local Law	Decree 39/2016/ND-CP, Article 16.
Benchmark ID	HSE.8
Benchmark Details	Workers shall be provided with training on the use and maintenance of personal protective equipment. Training shall be upon hire with periodic refresher training offered to all workers. Management will ensure use of PPE as necessary.
Finding Details	Three forklift operators do not use personal prospective equipment (PPE) such as helmets, seatbelts, and protective shoes when driving forklift outside the material warehouse.
Recommendation for Immediate Action	Ensure all forklift operators are trained and properly use PPE.
Compliance Classifications	Immediate Action Required
Local Law	Law on Occupational Safety and Hygiene 2015, Article 23.
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	There is approximately 70% of workers in the sewing and finishing section in production workshops are not provided with back-rest chairs to reduce the hazards of prolonged seated work.
Recommendation for Immediate Action	Provide back-rest chairs to sewing and finishing workers to reduce the hazards of prolonged seated work.

Compliance Classifications	Immediate Action Required
Local Law	Occupational Health and Safety Law, 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.
Finding Details	<p>Workers work overtime more than local legal limit in sample selected months as below: - In June 2022 (current month): 19 out of 35 sample selected workers from Warehouse, Inspecting, Sewing, Cutting, QC Finishing, Preparation, Glue, Electrician, Maintenance, Finishing section worked overtime more than 60 hours per month, max monthly overtime is 112.5 hours; 15 out of 35 sample selected workers from Warehouse, Inspecting, Sewing, Cutting, QC Finishing, Preparation, Glue, Electrician, Maintenance, Finishing section worked overtime more than 4 hours per day, max daily overtime hour is 7.5 hours. - In February 2022 (sampled month): 17 out of 35 sample selected workers from Warehouse, Inspecting, Sewing, Cutting, QC Finishing, Preparation, Glue, Electrician, Maintenance, Finishing section worked overtime more than 40 hours per month, max monthly overtime hour is 103 hours; 7 out of 35 sample selected workers from Warehouse, Inspecting, Sewing, Cutting, QC Finishing, Electrician, Maintenance section worked overtime more than 4 hours per day, max daily overtime hour is 7 hours. - In December 2021 (sampled month): 15 out of 35 sample selected workers from Warehouse, Inspecting, Sewing, Cutting, QC Finishing, Preparation, Glue, Electrician, Maintenance, Finishing section worked overtime more than 40 hours per month, max monthly overtime is 186.5 hours ; 10 out of 35 sample selected workers from Warehouse, Inspecting, Sewing, Cutting, QC Finishing, Electrician, Maintenance, Glue section worked overtime more than 4 hours per day, max daily overtime hour is 9 hours. Note: The time attendance records from July 2021 to July 20, 2022 are provided for review.</p>
Recommendation for Immediate Action	Ensure the overtime hour of workers is within the legal limits.

Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 107, Point 2b and Resolution No. 17/2022/UBTVQH15, Article 2.
Benchmark ID	HOW.14
Benchmark Details	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.
Finding Details	1. The payments for untaken annual leaves paid to workers who resigned in March 2022 is not correct due to the incorrect 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 (February 2022) as per law. 2. All outsourced production workers are not provided with annual leaves as per law required.
Recommendation for Immediate Action	Provide annual leave and pay workers correctly for annual leave as per law.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code, Article 113.
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 sample selected months as below: - In June 2022 (current month): 20 out of 35 sample selected workers from Inspecting, Sewing, Cutting, QC Finishing, Preparation, Glue, Electrician, Maintenance, Finishing, Warehouse section worked more than 60 hours per week; max working hour is 83 hours per week from one to three weeks a month; - In February 2022 (sampled month): 13 out of 35 sample selected workers from Inspecting, Sewing, Cutting, QC Finishing, Preparation, Glue, Electrician, Maintenance, Finishing, Warehouse section worked more than 60 hours per week; max working hour is 86 hours per week from one to three weeks a month. - In December 2021 (sampled month): 15 out of 35 sample selected workers from Inspecting, Sewing, Cutting, QC Finishing, Preparation, Glue, Electrician, Maintenance, Finishing, Warehouse section worked more than 60 hours per week; max working hour is 92.5 hours per week from one to three weeks a month. Note: The time attendance records from July 2021 to July 20, 2022 are provided for review.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/a
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	There is no verifiable time recording system used for 431 production workers supplied by the manpower agent. The factory only keeps the working hour summary sheets which do not indicate time in/ time out and signature of workers. Note: There are 431 outsourced production workers (104 workers from manpower agent named Thoi Dai Labor Trading Service Co., Ltd and 327 workers from manpower agent named Hung Thinh Phu Co., Ltd) working at the factory. The factory uses the outsourced production workers from these manpower agents from October 2021.

Recommendation for Immediate Action	1. Install a mechanical system to record the working hours of all outsourced workers. 2. Maintain the time attendance records of all outsourced workers and provide them for review.
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	Workers are not provided one day off every seven days in sample selected months as below: - In June 2022 (current month): Five out of 35 sample selected workers from QC Finishing, Electrician, Cutting, Warehouse worked one Sunday per month. The most consecutive working day is 13 days from June 13 to June 25, 2022. - In February 2022 (sampled month): 16 out of 35 sample selected workers from Inspecting, Sewing, Cutting, QC Finishing, Preparation, Glue, Electrician, Maintenance, Finishing, Warehouse section worked one to two Sundays per month. The most consecutive working day is 15 days from February 14 to February 28, 2022. - In December 2021 (sampled month): 16 out of 35 sample selected workers from Inspecting, Sewing, Cutting, QC Finishing, Preparation, Glue, Electrician, Maintenance, Finishing, and Warehouse section worked one to four Sundays per month. The most consecutive working day is 31 days from December 1 to December 31, 2021. Note: The time attendance records from July 2021 to July 20, 2022 are provided for review.
Recommendation for Immediate Action	Ensure to provide all workers with one day off in every seven-day period.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 111.

