Fair Labor Association: Independent External Factory Assessment

Assessment Date : **03 Nov 2022**

Factory Information	
FLA Affiliates	Burton Snowboards
Country	Peru
Number of Workers	0

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
Employment Relationship (ER)	10
Freedom of Association & Collective Bargaining	1
Freedom Of Association And Collective Bargaining (FOA)	3
Health, Safety And Environment (HSE)	13
Hours Of Work (HOW)	1
Nondiscrimination (ND)	3

Assessment Information	
Assessor	VeLar International

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Assessment Date	03 Nov 2022
Assessment Purpose	

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ASSESSMENT RESULTS

Employment Relationship (ER)

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	The factory does not provide ongoing trainings on some of the FLA code elements; such as Child Labor, Forced Labor, Non-Discrimination, Freedom of Association, Disciplinary Systems, Working Hours, and Compensation
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.5.1
Benchmark Details	Employers shall ensure that all supervisors are trained in national laws, workplace regulations, and the FLA Code, workplace grievance systems, and the appropriate practices to ensure compliance.
Finding Details	The factory does not provide trainings to supervisors that includes all FLA's Code elements and Employment Functions.
Recommendation for Immediate Action	

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Compliance Classifications	Sustainable Improvement Required
Local Law	
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	There is a suggestion box installed in the production areas, and as confirmed by the managers its purpose is receiving employees' concerns and grievances. However, the grievance procedure does not include the suggestion box as part of the channels to raise concerns or complaints; therefore it is not specified, who and when will review grievances. In addition, employees declared they are not aware about the protocol if they use this suggestion box, also they did not reported other confidential or anonymous way to raise complaints inside the company. No evidence was observed related the grievances' follow up and feedback to employees. Finally, the suggestion box is located down a CCTV camera.
Recommendation for Immediate Action	1-Ensure to update the grievance procedure includes the suggestion boxes and all related protocols 2-Provide specific training to managers, supervisors and workers on grievance& suggestion boxes procedures 3-Relocate the suggestion boxes in an accessible area away from any cameras to ensure confidentiality of the workers.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	ER.7.1

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Benchmark Details	Employers shall have written policies and procedures with regard to performance reviews that outline the review steps and process, demonstrate linkages to job grading, prohibit discrimination, are provided in writing and seek feedback and agreement/disagreement from employees in writing, and that follow all local legal requirements.
Finding Details	The company is in process of developing the performance evaluation protocol, at the audit moment there were evaluation criteria developed only for two positions, and in these two cases the evaluation criteria did not match with the responsibilities established on the job description. For the rest of the positions in the factory, performance evaluation protocol is missing Additionally, the performance evaluation report for those two positions does not include space for placing employees' comments.
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 does not provide regular communication related factory procedures and FLA's Code elements and Employment Functions In addition, the FLA Code has not been published or delivered to the employees.
Recommendation for Immediate Action	

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Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.10.2
Benchmark Details	Employers shall not renew contracts for multiple successive short-terms in lieu of providing regular employment.
Finding Details	The factory signs individual fixed-term employment contracts with the employees based on its condition as a non-traditional export. This industry clasification (specified in the local law), allows specific industries (one of those is the textile) to sign consecutive short-term labor contracts with employees. During the personnel files review it was noted that HIALPESA has signed short term continuous contracts with its employees, that have been working in the company during periods that go from four months to seventeen years (minimum and maximum in the reviewed scope). Although this is a legal practice; it is against the FLA Benchmarks, since employees can be terminated at any time without reason, and workers lose their benefits of being a permanent employee.
Recommendation for Immediate Action	Ensure to stop the practice of temporary contracts and sign permanent labor contracts with the employees.
Compliance Classifications	Immediate Action Required
Local Law	
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.

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Finding Details	The orientation training does not cover all FLA Code Elements and Employment Function such as: Child Labor, Forced Labor, Harassment and Abuse and Freedom of Association
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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	Employees are not involved in the decision-making process of aspects such as the Retrenchment protocols. In addittion, the company policies have not been subjected to annual management review.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.18.6
Benchmark Details	The workplace shall commit to non-retaliation for all steps of the disciplinary process, including for a worker requesting a witness and filing an appeal of disciplinary action.
Finding Details	There is no procedure to ensure employees can request a witness during the disciplinary process; also it is missing an appeal format.

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Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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	There is no evidence of employees' comments or concerns received as a feedback when a disciplinary action is raised. The disciplinary records only show the employees' signature, but there is no space to raise concerns or nonconformities.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Freedom of Association & Collective Bargaining	
Benchmark ID	FOA.19.3
Benchmark Details	Where a union exists in the workplace, employers shall make available a copy of the collective bargaining agreement to all workers and other interested parties.
Finding Details	There are two unions in the company; and the company has signed one Collective Bargaining Agreement (CBA) with one of the unions. However, there is no evidence that shows a copy of this CBA delivered to employees. (Interviewed workers declared they have not received a copy of the CBA)

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Recommendation for Immediate Action	Deliver a copy of the CBA to all relevant employees.
Compliance Classifications	Immediate Action Required
Local Law	
Freedom Of Association And Collective Bargaining (FOA)	
Benchmark ID	FOA.5.1
Benchmark Details	Employers shall not engage in any acts of anti-union discrimination or retaliation, i.e. shall not make any employment decisions which negatively affect workers based wholly or in part on a workers' union membership or participation in union activity, including the formation of a union, previous employment in a unionized facility, participation in collective bargaining efforts or participation in a legal strike.
Finding Details	During the employees' interviews it was noted that no employees were trained in the Freedom of Association policy, neither were aware about the non-discrimination or retaliation policies. In addition, those employees that are aware about the union existence do not confirmed they feel free to contact the union representatives, in fact it was noted they avoid talking about the topic. Also, assessors interviewed representatives from both unions Sindicato de Lavandería and Sindicato de Trabajadores de Hialpesa. From this last union, assessors interviewed representatives that are working in the factory and representatives that were dismissed by the factory who have started a legal process against the factory claiming the reason was their union activities. Those representatives presented evidence of the legal process they are holding against the company for this reason.
Recommendation for Immediate Action	Ensure to avoid any retaliation or discriminatory practice against the unionized employees.
Compliance Classifications	Immediate Action Required

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Local Law	Article 4th of the Regulation of the Labor Collective Relations Law.
Benchmark ID	FOA.21
Benchmark Details	Unions not recognized as a bargaining agent of some or all of the workers in a facility shall have the means for defending the occupational interests of their members, including making representations on their behalf and representing them in cases of individual grievances, within limits established by applicable law.
Finding Details	There are two unions in the company. The first union was Sindicato de Trabajadores de HIALPESA and in the last years was created Sindicato de Lavandería. During the assessment process, assessors interviewed two union board members of Sindicato de Lavandería and two union members and two board members of Sindicato de Trabajadores de HIALPESA. Based on the interviews it was confirmed that Sindicato de Trabajadores de Hialpesa, has not obtained the renewal of the CBA with the factory, negotiations are in process for the past two years and the union board members declared that they are intentionally delayed by the factory. Also the union board members of this union have been terminated and the remaining members were relocated in a separate building, a materials' warehouse located a block away from the main building. Therefore this union members can not easily contact or been contacted by the employees. In the other hand the Sindicato de Lavandería, has a signed CBA with the company, even when it was created several years after the first one. Due to the situation previously described, it seams that the Sindicato de Trabajadores de Hialpesa has not received the same treatment and opportunities as other union the Sindicato de Lavandería has.
Recommendation for Immediate Action	Ensure to provide the same treatment, conditions and communication with both unions.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	FOA.6

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Benchmark Details	Workers who have been unjustly dismissed, demoted or otherwise suffered a loss of rights and privileges at work due to an act of union discrimination shall, subject to national laws, be entitled to restoration of all the rights and privileges lost, including reinstatement, if they so desire.
Finding Details	There has been a retrenchment in 2019, and the unionized employees denounced illegal termination due to the union claims. They initiated a legal suit against the company; and although the government has delivered a resolution to rehire union representatives on their positions, the company has initiated an appealing process to avoid or postpone this obligation; and employed only one worker back, however not for the original position and same shift. (Appealing process of the factory still contunies)
Recommendation for Immediate Action	Respect the authority resolution when it is delivered. According to appeal process results ensure re-employing the workers, and ensure they work on their original positions and time shifts.
Compliance Classifications	Immediate Action Required
Local Law	

Health, Safety And Environment (HSE)

Benchmark ID	HSE.5.3
Benchmark Details	Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually.
Finding Details	No evacuation fire drills were performed in the night shift.
Recommendation for Immediate Action	Ensure to perform evacaution fire drills with the participation of all employees in all shifts.
Compliance Classifications	Immediate Action Required
Local Law	Article 173 of the Peruvian Supreme Decree 42F.

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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-Two emergency exits were not signed in the laundry area. 2-The meeting point was obstructed since it is in the materials' unloading area.
Recommendation for Immediate Action	1-Ensure to keep all emergency exits identified. 2-Ensure to keep the meeting point free from obstruction.
Compliance Classifications	Immediate Action Required
Local Law	Article 133 of the Supreme Decree 42.
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	As the emergency lights in the production areas were not connected to energy, they were not lighted when the power goes out.
Recommendation for Immediate Action	Ensure to keep all emergency lights powered all the time.
Compliance Classifications	Immediate Action Required
Local Law	Articles 97 and 99 of the Peruvian Suprem Decree 42F.
Benchmark ID	HSE.5.1.4

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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	One emergency exit was blocked with materials in the laundry area.
Recommendation for Immediate Action	Ensure to keep all emergency exits identified and free from obstruction.
Compliance Classifications	Immediate Action Required
Local Law	Article 133 of the Supreme Decree 42.
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	Several chemicals found not labeled and in beverage containers: 5 painting containers were found in the cutting area, 3 containers with cleaning chemicals in the bathrooms, and "anti-quiebra" in the production area.
Recommendation for Immediate Action	Ensure to keep all chemicals labeled and with the MSDS available and attached.
Compliance Classifications	Immediate Action Required
Local Law	Peruvian Law 29783
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.

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Finding Details	The sewing area was dirty with dust in the roof installations, the electrical wires, the un-used production stations and machinery.
Recommendation for Immediate Action	Ensure to keep the facilities clean at all times.
Compliance Classifications	Immediate Action Required
Local Law	Article 103 of the Supreme Decree Nº 009-2005-TR
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-The noise level assessment only includes 8 monitored points and reflects 4 of them out of the authorized levels, but there is no evidence of why only 8 points out of the total facility were selected. 2-There were electrical boxes without identification and warning signs in the laboratory, cutting section and production areas.
Recommendation for Immediate Action	1-Ensure to update the noise level assessment with the complete scope. 2-Ensure to keep electrical equipment identified, labeled and in safety conditions.
Compliance Classifications	Immediate Action Required
Local Law	Article 359 of the Peruvian Law 42F
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	The company presented a lockout-tagout procedure, however it is missing the corresponding equipment (tags and locks) and there are no records of training delivery of electrical maintenance personnel.

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Recommendation for Immediate Action	Ensure to have available the lockout-tagout equipment and deliver the corresponding training to relevant employees.
Compliance Classifications	Immediate Action Required
Local Law	Peruvian Law 29783
Benchmark ID	HSE.6.1
Benchmark Details	All safety and medical equipment (e.g. fire fighting equipment, first aid kits) shall be available in sufficient numbers throughout the workplace, maintained and stocked as prescribed, and easily accessible to workers.
Finding Details	The eyeshower in the laundry area was osbtructed with containers.
Recommendation for Immediate Action	Ensure to keep all shower stations free from obstruction.
Compliance Classifications	Immediate Action Required
Local Law	
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	It was noted that the risk assessment reflects the use of 405 chemicals, and there were only 171 Material Safety Data Sheets (MSDS) available.
Recommendation for Immediate Action	Ensure to review the risk Assessment and keep all chemicals with the MSDS available and attached.

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Compliance Classifications	Immediate Action Required
Local Law	Peruvian Law 29783
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	Employees in the cutting position do have metal gloves.
Recommendation for Immediate Action	Provide employees with required Personal Protective Equipment (PPE), including cutting section workers.
Compliance Classifications	Immediate Action Required
Local Law	Article 1290 of the Peruvian Supreme Decree 42F.
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	There are no records of training delivery of electrical maintenance personnel.
Recommendation for Immediate Action	Provide trainings to relevant employees on electrical maintenance and safety.
Compliance Classifications	Immediate Action Required
Local Law	Peruvian Law 29783
Benchmark ID	HSE.17.1

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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	1- Anti-fatigue rubber mats provided for standing up employees are in poor condition and no longer prevent fatigue damages. 2- Employees have not been provided with ergonomic chairs. (i.e adjustable chairs).
Recommendation for Immediate Action	Provide employees with required Personal Protective Equipment (PPE), including cutting section workers.
Compliance Classifications	Immediate Action Required
Local Law	Article 1290 of the Peruvian Supreme Decree 42F.
Hours Of Work (HOW)	
Benchmark ID	HOW.21
Benchmark Details	Other than in exceptional circumstances, the total weekly work hours (regular work hours plus overtime including any alternative shifts such as 4x4 or 3x3) shall not exceed 60 hours per week.
Finding Details	Auditors reviewed the time records of 21 employees from the period from September 1st -20th 2023. It was noted that regular working hours are 48 hours a week; and four employees worked more than 12 overtime hours in the following weeks exceeding the 60 hours per week limited by the FLA Code: Employee one worked 17.32 overtime hours from September 1st to 7th 2023. Employee two worked 18.07 overtime hours from September 8th to 14th 2023. Employee three worked 18.05 overtime hours from September 1st to 7th 2023. Employee four worked 25.04 overtime hours from September 15th to 21st 2023.
Recommendation for Immediate Action	Ensure workers work within the weekly overtime limit.
Compliance Classifications	Immediate Action Required

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Local Law	Art.1 of Legislative Decree No. 854 regarding Work Shift, Schedule and Overtime, modified by Law No. 27671, as well as Convention No. 1 of the ILO ratified by Peru and the FLA Code of Conduct.
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	The job application includes questions related to age, sex and "harmful habits".
Recommendation for Immediate Action	Ensure to avoid questions not related with the aspirants knowledge or experience.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	ND.8.1
Benchmark Details	Employers shall abide by all protective provisions in national laws and regulations benefitting pregnant workers and new mothers, including provisions concerning maternity leave and other benefits; prohibitions regarding night work, temporary reassignments away from work stations and work environments that may pose a risk to the health of pregnant women and their unborn children or new mothers and their new born children, temporary adjustment of working hours during and after pregnancy, and the provision of breast-feeding breaks and facilities.
Finding Details	Female employees receives 45 minutes instead of 60 minutes for nursing, when they return from the maternity leave.

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Recommendation for Immediate Action	Ensure to provide at least 60 minutes for nursing.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	ND.2.2
Benchmark Details	Employment decisions shall not be made on the basis of gender, race, religion, age, sexual orientation, nationality, political opinion, social group, ethnic origin, marital status, or union affiliation or sympathy.
Finding Details	The retrenchment procedure does specify how discrimination will be avoided in case of termination.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

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