

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

26 Jul 2023



Factory Information

FLA Affiliates	Amer Sports,PUMA SE
Country	Vietnam
Number of Workers	4347

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)	3
Employment Relationship (ER)	5
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	10
Hours Of Work (HOW)	3
Nondiscrimination (ND)	2

Assessment Information

Assessor	OneStep Viet Co., Limited
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Assessment Date	26 Jul 2023
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Assessment Purpose	Factory Assessment (In-Person)
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ASSESSMENT RESULTS

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	The factory provides the allowance for piece-rate workers with the name "skill bonus" ranging from VND 100,000 to VND 300,000. However, after checking policy and interview with relevant persons (workers and factory management), this allowance should be considered as seniority allowance instead of skill bonus due to this allowance is only based on the seniority working years of each worker. This allowance is not used for mandatory insurance contribution as legally required.
Recommendation for Immediate Action	Contribute the compulsory insurance as legally required.
Compliance Classifications	Immediate Action Required
Local Law	Article 90 of Vietnam Labor Law 2019; Article 55 of Decree 145/2020/ND-CP; Article 89 of Law on Social Insurance No. 58/2014/QH13
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) The piece rate wage system of the factory is not calculated in a correct manner. The factory pays the piece rate wage payment and does not calculate an extra payment for the overtime hours and night working time. This correct piece rate wage payment for workers should include all working hours (regular + over time) in which the overtime and night time must have the different rate (e.g., 150% for weekdays overtime, 200% for Sunday overtime, 270% for night working time on Sunday working, etc.).
Recommendation for Immediate Action	Overtime premium rate shall be calculated at paid sufficiently.
Compliance Classifications	Immediate Action Required
Local Law	Article 90, 93, 96 and 98 of Vietnam Labor Law 2019 and Article 55 of Decree 145/2020/ND-CP
Benchmark ID	C.17
Benchmark Details	Employers shall ensure that all legally required payroll documents, journals and reports are available, complete, accurate and up-to date.
Finding Details	The factory is using onsite sub-contractors: Security service (23 employees), Canteen service (32 employees), and gardening service (one employee). The factory only keeps a list of the employees from subcontractors who work onsite at the facility with a copy of the ID card to identify age of legal working age. However, there are no payroll records or social insurance records available for reference during the assessment time, as per standard requirements. Thus, the information regarding wages, benefits, and working hours cannot be verified.
Recommendation for Immediate Action	Monitor and keep payroll and benefit records of all onsite workers.
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A

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	There is no on-going training provided for all employees on all FLA or affiliate 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	All supervisors/managers have not been trained on FLA's Code elements and Employment Functions. All supervisors/managers are provided with the Handbook of Internal Regulation. However, the handbooks do not include some of FLA's Code elements, e.g. child labor, forced labor, non-discrimination; compensation & freedom of association.
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	The factory does not have policies and procedures regarding retrenchment.
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	<p>1) The probationary duration for production workers is 31 days instead of maximum 30 days as legal requirement. This practice affected the workers who signed probationary contract in the months that have 31 days in calendar (e.g., July, August, October, December 2022 and Jan, March, May 2023). Remark: The labor contract was signed on the correct day and it did not affect the monthly wage and other benefits for workers. 2) The workers are receiving hourly rate or piece rate, depending on which rate is higher and better for the workers. However, the labor contract between workers and the factory is stated that workers shall receive the hourly rate (monthly wage) only, no piece rate is mentioned. 3) The factory is using onsite sub-contractors: Security service (23 employees), Canteen service (32 employees), Gardening service (one employee). The factory only keeps the list of the employees from sub-contractor who work onsite at the facility with the copy of the ID card to identify age of legal working age. However, there are no labor contract records available for reference during the assessment time as per standard requirement. Thus, the information regarding employment practice, wage, benefit and working hours cannot be verified.</p>
Recommendation for Immediate Action	<p>1) Ensure probation period complied with legal requirement. 2) Ensure the labor contract to have legally required contents including salary payment forms. 3) Monitor and keep labor contract of all onsite workers.</p>
Compliance Classifications	Immediate Action Required
Local Law	Article 16, 21 and 25 of Vietnam Labor Law 2019 and Article 3 of Circular No. 10/2020/TT-BLDTBXH
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 factory provides training regarding FLA Codes for new workers during orientation training. However, the training content does not include some FLA's Code elements, e.g., child labor; non-discrimination; forced labor, and freedom of association.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A

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	1) The factory does not develop regulations for dialogue at the workplace. 2) According to the representative of the trade union, the union shall meet workers weekly. However, there has been no worker meeting since November 23, 2017. The representative shares that the worker meeting will be conducted in August 2023. 3) The employee conference is not held annually. The latest employee conference was on July 20, 2022.
Recommendation for Immediate Action	1) Develop the regulation for dialogue at workplace. 2) Ensure meetings are conducted weekly according to the representative of trade union. 3) Organize employee conference annually.
Compliance Classifications	Immediate Action Required
Local Law	Decree No. 145/2020/ND-CP, Article 37 and 47

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	The factory conducts fire drills, but not all workers participate. The auditor noted that approximately 97 workers did not join the fire drill in April 2022; August 2022, or April 2023 (workers work at 06:00–15:00; 06:00–14:00 and are nursing children). Remark: All fire drill practices are conducted at 16:00–16:30 in 2022 and 2023.
Recommendation for Immediate Action	Ensure fire drill with all workers participate
Compliance Classifications	Immediate Action Required
Local Law	N/A
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 audible fire alarm sign is low at the cutting line (workshop B). Besides, the beacon light signal is not easy to recognize in this area.
Recommendation for Immediate Action	Ensure fire alarm functional.
Compliance Classifications	Immediate Action Required
Local Law	National Technical Regulation TCVN 5738:2021, Article 4, Clause 4.2
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	1) There is no secondary containment for two containers of used chemicals at the hazardous waste warehouse. 2) One secondary containment of waste (used chemical) is not closed to prevent the chemical leakage at hazardous waste warehouse. 3) Around 4 chemical containers were not labelled in local language and storage in secondary containment at metal warehouse.
Recommendation for Immediate Action	Chemical containers shall be stored in functional secondary containment. Chemical containers shall be labeled with main content and hazards.
Compliance Classifications	Immediate Action Required
Local Law	National Technical Regulation QCVN 05A:2020/BCT, Article 2 and 5
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 food samples are not kept for at least 72 hours and not more than 4 degrees Celsius, as per the applicable standard. They are kept within 24 hours (and 48 hours for Saturday) and at more than 10 degrees Celsius, as mentioned in the food sample record. Remark: This practice is compiled according to local legal requirements.
Recommendation for Immediate Action	The food samples are kept at least 72 hours and maintain the cooling temperature for storing at 4 degrees Celsius or lower than 4 degrees Celsius as applicable standard.
Compliance Classifications	Sustainable Improvement Required

Local Law	N/A
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	1) The safety cover of at least three ladders is broken outside of building B. 2) Around 20 compressed LPG cylinders are not chained at two LPG storages near the kitchen area. 3) There is no gas detector equipped at two LPG cylinder storages.
Recommendation for Immediate Action	1) Ensure safety guard functional. 2) LPG cylinders shall be chained properly. 3) Install gas detector at LPG cylinder storage.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 84/2015/QH13 on Occupational safety and hygiene, Article 16
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	1) The automatic firefighting system, such as sprinklers, fire hydrants, and fire pumps, is not maintained by the competent agencies to assess quality and functioning capacity at least once per year. 2) The fire extinguishers in all areas are not maintained regularly by a competent agency at least once every 6 months. All fire extinguishers in workshops A and B were maintained in November 2022 and fire extinguishers in workshops C and D were maintained in May 2023. 3) The activation pressure of the jockey firefighting pump (2 -4kg) is lower instead of higher than the activation pressure of the main pump (4 – 8 kg).

Recommendation for Immediate Action	1) Ensure that automatic firefighting system must be maintained annually with record keeping. 2) Fire extinguishers shall conduct maintenance every 6 months. 3) Set up activation pressure of firefighting pumps at different levels (jockey pump > main pump > backup pump).
Compliance Classifications	Immediate Action Required
Local Law	Circular No. 17/2021/ND-CP, Annex II and VII and National technical regulation QCVN 02:2020/BCA, Article 4, Point 4.2 and Article 2, Point 2.2.5; National Technical Regulation TCVN 7435-2:2004, Article 4, Clause 4.3, Point 4.3.1.
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) Hazardous waste (around four cans of used paint) is mixed with non-hazardous waste at plastic waste storage instead of being stored at a hazardous waste warehouse. 2) A small amount of wastewater (condensation water from two air compressor tanks is leaked on the ground of air compressor room.
Recommendation for Immediate Action	1) Hazardous waste shall be classified and stored in designated area. 2) Wastewater shall be collected and treated correctly.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 72/2020/QH14 on Environmental protection, Article 7 and 83
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	Some workers did not wear protective leg-gear at the grinding section (building B).
Recommendation for Immediate Action	Workers shall use personal protective equipment properly.
Compliance Classifications	Immediate Action Required
Local Law	Circular No. 25/2022/TT-BLDTBXH, Article 5
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	1) The general workers are not provided occupational safety and health (OSH) training (defined as group 4) in enough time as per the legal requirement as below: + The first minimum training time is provided for Group 4 only has 1 – 2 hours instead of 16 hours. + The periodical training at least once a year but the periodical training time is only 1 – 2 hours instead of 8 hours. 2) The occupational safety and health (OSH) training record is provided for 2655 general employees in group 4 with pass result. However, during the document review and worker interview, the workers confirmed that they did not participate in OHS training, and the attendance list was not signed by the workers. 3) Approximately 160 welder operators are not trained and certified on their professionals. 4) The factory does not provide training to designated workers with special/high-risk responsibilities working in confined spaces or at heights.
Recommendation for Immediate Action	1) Provide required OSH training to designated employees. 2) Workers who operate strictly required machine and equipment should be provided professional certificate as legally required.
Compliance Classifications	Immediate Action Required

Local Law	Decree No. 44/2016/ND-CP, Article 17, 19, 21; National technical regulation QCVN 03:2011/BLDTBXH (Electrical welding) Article 3, Point 3.4.2.1; National technical regulation QCVN 17:2013/BLDTBXH (Gas welding), Article 4, Point 4.1
Benchmark ID	HSE.17.1
Benchmark Details	Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains.
Finding Details	The factory does not provide chairs with backrests for workers performing prolonged sitting jobs (e.g. sample section) or standing mats for workers performing prolonged standing jobs (waxing, machining section, etc.)
Recommendation for Immediate Action	Provide chairs with backrest (standing mats) for workers performing prolonged sitting (standing) jobs.
Compliance Classifications	Immediate Action Required
Local Law	N/A

Hours Of Work (HOW)

Benchmark ID	HOW.20
Benchmark Details	Employers shall have in place practices that conduct regular analysis of hours of work in their workplaces and procedures that demonstrate a commitment to progressively reducing excessive hours of work.
Finding Details	The factory sets production targets and piece rates at such a level that workers need to work beyond regular working hours (including overtime), instead of being set for regular working hours as per FLA Benchmarks.
Recommendation for Immediate Action	Production plans should not include overtime.

Compliance Classifications	Immediate Action Required
Local Law	N/A
Benchmark ID	HOW.11.1
Benchmark Details	Employers shall provide workers with paid annual leave as required under national laws, regulations and procedures.
Finding Details	1) As a general practice, the factory asked workers to take annual leave and “waiting production leave” on some days of monthly basis (from Jan to July 2023) due to no order for the production and one day on 30th June 2023 due to the factory conducting raw material inventory, in which the “waiting production leave” is paid only VND 180,000/day (local minimum wage: VND 4,680,000/26). As a legal requirement, in the case of a suspension of work, the employee shall be paid the full salary under the employment contract if the suspension is at the employer’s fault. 2) There is one case of worker that did not receive the payment of one public holiday on 1st Jan 2023. This worker took maternity leave from 2nd Jan to 1st July 2023, as the result, this worker should receive the payment of public holiday in Jan 2023 as legal requirement.
Recommendation for Immediate Action	1) The salary shall be fully paid if the suspension is at the employer’s fault. 2) Calculate compensation for holidays and annual leaves at the rate stipulated by local law.
Compliance Classifications	Immediate Action Required
Local Law	Article 99 and 112 of Vietnam Labor Law 2019
Benchmark ID	HOW.22.3
Benchmark Details	Time worked by all workers, regardless of wage system, shall be fully documented by time cards or other mechanical or electronic recording systems.

Finding Details	The factory is using onsite sub-contractors: Security service (23 employees), Canteen service (32 employees), and gardening service (one employee). The factory only keeps a list of the employees from sub-contractor who work onsite at the facility with a copy of the ID card to identify age of legal working age. However, there are no attendance records available for reference during the assessment time, as per standard requirements. Thus, the information regarding wage, benefit, and working hours cannot be verified.
Recommendation for Immediate Action	Monitor and keep attendance record of all onsite workers.
Compliance Classifications	Immediate Action Required
Local Law	N/A

Nondiscrimination (ND)

Benchmark ID	ND.1.1
Benchmark Details	Employers, employment agencies, and intermediaries shall comply with all national laws, regulations and procedures concerning nondiscrimination. Where local laws and FLA standards differ, the employer, employment agency, and intermediary is expected to follow the highest applicable standard.

Finding Details	The factory provides the allowance for piece-rate workers with the name "skill bonus," ranging from VND 100,000 to VND 300,000. However, after checking policy and interviewing relevant persons (workers and factory management), this allowance should be considered a seniority allowance instead of a skill bonus because it is only based on the seniority of the worker's working years. From the information from the workers interview and factory management interview, noted that the allowance is only provided for piece-rate workers only not for all workers (hourly-rate workers are not received this kind of allowance). By this sensitive practice, it would lead to the discrimination practice between hourly-rate workers and piece-rate workers. As the correct action, the seniority working years should be same and equal for all gender, all kind of workers and all departments.
Recommendation for Immediate Action	The factory shall ensure that workers who receiving hourly rate system and piece rate system perform the same jobs shall be paid the same salary.
Compliance Classifications	Immediate Action Required
Local Law	Article 3 and 175 of Vietnam Labor Law 2019
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 factory shall not recruit any employees who are under 18 years old, as stated in the Company Rule. However, the legal working age as per the legal requirement is from and above 15 years old. 2) The factory has the recruitment post on social media with the content of hiring for ages ranging from 18 to 40 years old, male or female workers that must know how to read and write Vietnamese. This post was posted on 12th Oct 2022 and is still shown at the time of the assessment. The factory management explains that they do not have any idea about this recruitment post.
Recommendation for Immediate Action	Stop discrimination practice.

Compliance Classifications	Immediate Action Required
Local Law	Article 3 and 8 of Vietnam Labor Law 2019

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