

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**29 Aug 2023**



## Factory Information

FLA Affiliates	Russell Brands/Fruit of the Lo
Country	Mexico
Number of Workers	777

## Understanding this Report

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

## FLA Code Element

## Number of Violations

Compensation (C)	1
Employment Relationship (ER)	4
Freedom Of Association And Collective Bargaining (FOA)	2
Health, Safety And Environment (HSE)	7
Nondiscrimination (ND)	3

## Assessment Information

Assessor	VeLar International
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Assessment Purpose	
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## ASSESSMENT RESULTS

### Compensation (C)

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	The company does not have a clear holiday procedure and record of holidays enjoyed by workers. After the legal reform of 2022, the number of vacations per year increased by 6 days; However, the company has not formally trained workers in this legal update. The entire company goes on vacation collectively, but those workers who are entitled to more days than those rested in this period receive payment for those days in December of each year; but there is no evidence that they have enjoyed them, and the law does not allow these days to be liquidated without rest (under any circumstances, even if it is agreed with the employees or the union).
Recommendation for Immediate Action	Ensure to develop and implement a procedure that fulfills the legal requirements related to the number of days to be taken and the protocol to enjoy them; train all employees on this procedure and keep the corresponding records to evidence compliance.
Compliance Classifications	Immediate Action Required
Local Law	Articles 76 to 81 of the Federal Labor Law.

### Employment Relationship (ER)

Benchmark ID	ER.17.1
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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 procedure for receiving, investigating and resolving complaints, reports and suggestions does not ensure confidentiality and anonymity when required by the worker.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.1.1
Benchmark Details	Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes.
Finding Details	There is no procedure specifying the steps and criteria for retrenchment, to involve employees' representatives and working together for best options for employees.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.18.1

Benchmark Details	Employers shall have written disciplinary rules, procedures and practices that embody a system of progressive discipline (e.g. a system of maintaining discipline through the application of escalating disciplinary action moving from verbal warnings to written warnings to suspension and finally to termination).
Finding Details	Although employees did not report forced overtime, the Internal Rules Handbook includes a clause that can be used to force employees to work this time. This clause establishes that "in case of extraordinary circumstances of production, employees will work overtime based on the Federal Labor Law articles 66, 67 and 68 and no absence for overtime hours will be sanctioned with disciplinary admonition". The Federal Labor Law in these articles state that working hours can be extended, and how this overtime should be paid, but it does not mention overtime can be obligatory. And Article 65 of the Federal Labor Law establishes working hours can be extended only when the employees or employer's life or the continuity of the company are on risk. In addition, there is no clause in the Internal Rules Handbook, or policy or procedure stating overtime is voluntary.
Recommendation for Immediate Action	Ensure to include in the Internal Rules Handbook clauses stating overtime is voluntary at any time.
Compliance Classifications	Immediate Action Required
Local Law	Federal Labor Law Articles 65, 66, 67 and 68.
Benchmark ID	ER.6.1
Benchmark Details	Employers shall have written policies and procedures and implement practices that encourage ongoing training of all categories of workers with the goal of raising or broadening skills in order to advance in their careers within the factory or beyond.
Finding Details	The factory does not have a written procedure for promotions of operational personnel
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	
<b>Freedom Of Association And Collective Bargaining (FOA)</b>	
Benchmark ID	FOA.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning freedom of association and collective bargaining. national laws, rules, and procedures protecting the rights of workers to organize and bargain collectively. Where local laws and FLA standards differ, the employer is expected to follow the highest applicable standard.
Finding Details	The freedom of association policy mentions that "It is the company's policy to allow free association of its workers to any political, religious, sports or other group in accordance with what is established in the Federal Labor Law". However, this policy does not clearly state factory's respect to employees' right whether to join an union or not, to create one, to be free from discrimination, and retaliation. Also, there is no declaration of no interference and respect to the union and representatives' activities.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	FOA.20.2
Benchmark Details	Provisions in collective bargaining agreements that contradict national laws, rules and procedures or offer less protection to workers than provisions of the FLA Workplace Code shall also be considered not applicable.

Finding Details	The sixth clause of the CBA states that the clauses and benefits of this agreement will apply exclusively to unionized workers; however, under the law, the CBA applies to all employees in operational positions (covered by the agreement), regardless of their affiliation with the union. The tenth clause also indicates that “the union will provide workers for new job positions”, this means the new job position is exclusively open for unionized workers. This practice violates the freedom of association and nondiscrimination since other workers (unionized or not) will not have the same opportunity as that the union members. Also, this clause presses applicants to join this specific union in order to have more job opportunities. Signing this clause also represents violation of the no interference requirement of the law.
Recommendation for Immediate Action	Ensure to eliminate clauses that affect employees' and aspirants' right of freedom of association and non-discrimination.
Compliance Classifications	Immediate Action Required
Local Law	Federal Labor Law articles 2nd and 396.

## Health, Safety And Environment (HSE)

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	During the facility tour, it was noticed that the aisle space is not wide enough for the transit and evacuation of workers.
Recommendation for Immediate Action	Ensure to have enough space in the aisles to allow rapid employees transit in case of emergency.
Compliance Classifications	Immediate Action Required
Local Law	Article 9.3 subsection D of the Mexican NOM-006-STPS-2014.



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	During the interviews, 30 out of 40 employees declared that the company gives them a roll of paper every Monday, but it is not enough for the entire week, so they must buy another roll before the end of the week ( Wednesday or Thursday).
Recommendation for Immediate Action	Ensure to provide enough toilet paper all employees.
Compliance Classifications	Immediate Action Required
Local Law	Article 18 subsection IX of the Mexican Health and Safety Regulation at Work.
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. Exposed wires were observed in the machinery lines D6 and D10. 2. There was no sign posted on electrical boards of the electricity room
Recommendation for Immediate Action	Ensure to keep all wires in safety conditions. Ensure to identify all electrical boards.
Compliance Classifications	Immediate Action Required
Local Law	Article 10.2 subsection "f" and "h" of the Mexican NOM-029-STPS-2011. Article 9.4 subsection "e" of the the Mexican NOM-029-STPS-2011.

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- There is an eye shower station near the chemical area, however it was not installed in an easy access location and it was not close enough to the chemical area to use in case of an accident. 2- There were noted two fire extinguishers stored in the floor of the reception area, without any protection to prevent damages caused by human traffic and vehicles.
Recommendation for Immediate Action	1.- Ensure to keep an accessible eye shower station in the chemicals' area. 2- Ensure to keep all fire extinguishers hanging at no more than 1.5 meters from the floor, or protected from hits.
Compliance Classifications	Immediate Action Required
Local Law	Article 5.4 of the Nom-005-STPS-1998. Article 7.17 subsection G of the NOM-002-STPS-2010
Benchmark ID	HSE.14.3
Benchmark Details	Employers shall ensure safety instructions are either displayed or posted near all machinery or are readily accessible to the workers in language(s) spoken by workers.
Finding Details	It was noted that warning signs posted on the compressor and the electrical boards of the production areas are in a foreign language; without the translation to the local language.
Recommendation for Immediate Action	Ensure to post all machinery warnings in local language.
Compliance Classifications	Immediate Action Required
Local Law	

Benchmark ID	HSE.20
Benchmark Details	Employers shall establish the number of toilets required under applicable laws within reasonable distance of the workplace. In addition, the following should also be considered: number of toilets based on number of workers, privacy for each individual and gender, accessibility and hygiene.
Finding Details	Employees declared they only have one restroom for three production lines and it is not enough.
Recommendation for Immediate Action	Ensure to have adequate number of restrooms for all employees.
Compliance Classifications	Immediate Action Required
Local Law	Article 18 subsection IX of the Mexican Health and Safety Regulation at Work.
Benchmark ID	HSE.30.2
Benchmark Details	The health, safety, and environmental policies shall contain the framework for a comprehensive health, safety, and environmental management system within which the following are clear and regularly tested and reviewed; procedures for reporting death, injury, illness and other health and safety issues (for instance, near-miss accidents) and environmental emergencies
Finding Details	The accidents and injuries investigation procedure is not written correctly as per legal requirements. It states a law that does not exists in Mexico: "Law of labor risks prevention", mentions that an "accidents investigation brigade" is responsible for accidents and injuries investigation. However, it is Mexican NOM-019-STPS-2004 which states that the accidents investigation protocol must be established by the Health and Safety Commission. The Commission is responsible for carrying out investigation and developing the preventive actions accordingly. In addition, there is no evidence that employees elected their representatives in the Health and Safety Commission.

Recommendation for Immediate Action	Ensure to update the injuries investigation procedure in accordance with the local law, ensure to keep records of the Health and Safety Commission investigations and ensure employees or the union freely elect their representatives.
Compliance Classifications	Immediate Action Required
Local Law	Article 9.5 subsection "b" of the Mexican NOM-019-STPS-2004 Article 8 of the Federal Health and Safety Regulation at Work.

### **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 contains questions regarding the applicant's family background, such as plans to get married and parents' occupation.
Recommendation for Immediate Action	Ensure to avoid any questions not related to the aspirants knowledge, experience and development.
Compliance Classifications	Immediate Action Required
Local Law	Articles 2nd and 3rd of the Federal Labor Law.
Benchmark ID	ND.6.2
Benchmark Details	Employers shall not threaten workers with dismissal or any other employment decision that negatively affects their employment status in order to prevent them from changing their marital, partnership, or family status (including getting married or becoming pregnant.)

Finding Details	The medical test applied during the selection process includes questions about the applicant's last menstrual date and gynecological conditions.
Recommendation for Immediate Action	Ensure to avoid any question about the applicant's conditions not related to the position and avoid asking any question to detect pregnancy.
Compliance Classifications	Immediate Action Required
Local Law	Articles 2nd and 3rd of the Federal Labor Law.
Benchmark ID	ND.3
Benchmark Details	Recruitment and employment policies and practices, including job advertisements, job descriptions, application and interview questions and job performance/evaluation policies and practices shall be free from any type of discriminatory bias.
Finding Details	The factory does not hire employees younger than 18 years, even when the law allows hiring employees above 15 years. In addition, the factory did not present any risk assessment or evaluation to justify that they cannot hire employees younger than 18.
Recommendation for Immediate Action	Ensure to avoid any discriminatory practices based on the applicant age.
Compliance Classifications	Immediate Action Required
Local Law	Article 2nd, Article 5 subsection I and article 22 of the Federal Labor Law.

