

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

14 Sep 2023



Factory Information

FLA Affiliates	Maxport Limited
Country	Vietnam
Number of Workers	2485

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)	5
Freedom Of Association And Collective Bargaining (FOA)	1
Harassment Or Abuse (H/A)	1
Health, Safety And Environment (HSE)	7
Hours Of Work (HOW)	1

Assessment Information

Assessor	Openview - Vietnam
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Assessment Date	14 Sep 2023
Assessment Purpose	

ASSESSMENT RESULTS

Compensation (C)

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 wage level is not maintained for all workers as the new wage scale has become effective since July 1, 2022. On January 1, 2022, the factory has increased the basic wage from level 1 to level 2 of wage scale for workers who are in level 1 for five years (60 months). On July 1, 2022, the factory developed and applied the new wage scale in which level 2 wage is VND 5,095,000/month. However, the factory does not maintain this level 2 for five (5) out of 45 selected sample workers who were in level 2 in the old wage scales. The wage level 2 of these workers is downgraded to the wage of level 1: VND 4,850,000/month, in the new wage scale. For example, the factory has increased the wage level of one selected sample worker from the level 1 to level 2 of the wage scale on January 1, 2022, but his wage level 2: VND 5,095,000/month is downgraded to the wage level 1 of the new wage scale: VND 4,850,000/ month since July 1, 2022. He joined the factory on April 6, 2015.
Recommendation for Immediate Action	Maintain the wage levels for all workers in compliance with the legal requirement on wage levels.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Articles 93 and 103.

Employment Relationship (ER)

Benchmark ID	ER.1.2
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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 ongoing training in 2023 for 2,776 workers related to FLA's Codes and Employment Functions was conducted. However, the training records did not indicate the training date of 206 workers. In addition, the evaluation section of each worker was pre-printed with a PASS result instead of the actual result which shall be completed after the training. This practice might lead to cases of workers who do not join the training but their name is recorded in training document with a PASS result.
Recommendation for Immediate Action	Not applicable
Compliance Classifications	Sustainable Improvement Required
Local Law	Not applicable
Benchmark ID	ER.1.1
Benchmark Details	Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes.
Finding Details	1. The factory has developed a procedure to discipline workers, supervisors, and managers who violate the factory labor rules. However, there is no regulation on how to discipline workers, supervisors, and managers who engage in violations regarding forced labor policy. 2. The factory has developed a procedure to discipline workers, supervisors, and managers who violate the factory labor rules. However, there is no regulation on how to discipline workers, supervisors, and managers who engage in any violations regarding child labor policy.

Recommendation for Immediate Action	1. Not applicable 2. Not applicable
Compliance Classifications	Sustainable Improvement Required
Local Law	1. Not applicable 2. Not applicable
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	<p>1. The term of labor discipline in both factory's labor internal rules and the Collective Bargaining Agreement registered with the local authority on March 16, 2021 is not fully in line with the legal requirement. Both of the documents state that factory would remind instead of taking any disciplinary action against pregnant female workers and male workers who have a child less than four (4) months of age. Meanwhile, the legal requirement requires no disciplinary measure taken against pregnant workers, or the worker who is on parental leave or cares for children less than 12 months old. In practice, no disciplinary measure was found to have been taken against pregnant workers, or the worker is on parental leave or is caring for children less than 12 months old in the factory during the assessment. 2. The factory does not fully follow the labor disciplinary procedures for handling labor discipline as detailed below: a. The factory does not maintain evidence of labor violation in the workers' disciplinary files. b. 1 (One) out of 8 (eight) selected disciplinary samples showed that notification was not sent to relevant parties at least five working days before the disciplinary meeting was held. This worker violated the factory's regulation of stealing goods on July 4, 2023, and the disciplinary meeting was held on the same day. She was dismissed on July 5, 2023.</p>
Recommendation for Immediate Action	Follow the disciplinary procedures when handling the disciplinary actions as per legal requirements.
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.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	The labor contract renewal evaluation does not follow the factory current procedure. The evaluation results of selected helper positions are based on two criteria: the number of working days and the number of company regulation violations instead of the three criteria: KPI, numbers of working days and numbers of factory's regulation violation stated in the factory established procedure.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
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	1. The Demotion procedure HR_Q04_H04 issued on May 12, 2018, does not cover the case of voluntary demotion with a lower salary to guide implementation. 2. There was one demotion case in the last twelve months, but the demotion procedure was not followed. The worker submitted the voluntary demotion letter on November 30, 2022, while her job re-assignment form, changing from the technical vice-leader position to sample worker position, was already completed on November 19, 2022, without her signature. In addition, the annex of the labor contract with the new position “worker” was signed between the worker and the employer on November 24, 2022 which was before the demotion letter submission.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A

Freedom Of Association And Collective Bargaining (FOA)

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	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

Harassment Or Abuse (H/A)

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	The factory has developed a procedure to discipline workers, supervisors, and managers who violate the factory labor rules. However, there is no regulation on how to discipline the workers, supervisors, and managers who engage in any violations regarding harassment and abuse policy.
Recommendation for Immediate Action	Not applicable

Compliance Classifications	Sustainable Improvement Required
Local Law	Not applicable
Health, Safety And Environment (HSE)	
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	During onsite testing, it was found that 2 (two) emergency lights in the fire water pump area did not work. According to the responsible person in the area, there is no battery installed in the emergency lights.
Recommendation for Immediate Action	Repair the emergency lights in the fire water pump area.
Compliance Classifications	Immediate Action Required
Local Law	QCVN 02:2020/BCA, Clause 2.1.7.
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	It was observed that emergency exits were obstructed by the placement of machineries/equipment in the following areas: - Sewing lines: ironing board. - Cutting section: cutting machines. The obstruction could cause injury when workers need to escape in emergency situations.

Recommendation for Immediate Action	Re-layout or remove all obstructions along the emergency exit routes.
Compliance Classifications	Immediate Action Required
Local Law	QCVN 06:2022/BXD, Clause 1.4.16
Benchmark ID	HSE.13
Benchmark Details	All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and to prevent or minimize hazardous conditions to workers in the facility.
Finding Details	The exposed wires on 2 (two) meat grinders and 1 (one) electrical fan in the kitchen area were connected with duct tapes which posed the risk of electrical shock.
Recommendation for Immediate Action	Repair all electrical wire connection points instead of using duct tape for safety reasons.
Compliance Classifications	Immediate Action Required
Local Law	Electricity Law No. 28/2004/QH11. Article 57
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	1.1. 1 (One) out of 10 (ten) observed cutting operator did not follow the factory's machinery safety procedure while cleaning the band knife machine. The operator did not turn off the machine and cover the knife of machine for safety. 1.2. The internal designed ladder is used in the factory for gardening activities, the ladder is not solid and looks unsafe to use; one scaffolding at the dormitory has not been dismantled or fenced off to prevent unauthorized use. 2. The safety guard of 1 (one) out of 5 (five) laser cutting machines is not in proper function, it cannot be completely closed. And, there is no warning sign to prevent improper use of that machine.

Recommendation for Immediate Action	1.1. Ensure to monitor and train workers so that that workers follow the factory's machinery safety cleaning procedure. 1.2. Replace the unsafe ladder and dismantle the scaffolding. 2. Repair the safety guard of the laser cutting machine .
Compliance Classifications	Immediate Action Required
Local Law	1.1. Law No. 84/2015/QH13, Article 6. 1.2. Not applicable 2. Law 84/2015/QH13. 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	1.1. The instruction for opening and closing the valves of fire water pipe in workshop No. 1 is faded and the requirement tag of "keep open" is lost. 1.2. The notification of the "Ground Fault" is displayed on the fire alarm control panel, upon further checking, it was noted that the issue can disrupt the functioning of fire alarm devices, such as smoke detectors, heat detectors, or manual pull stations, and this could result in delayed or non-functional alarms, leading to a delayed response in a fire emergency. Notes: During the site tour inspection, all tested fire alarm systems throughout the factory premise are functional during testing. 2. There is no proper container to collect the wastewater from the use of the emergency shower at the chemical storage area. In addition, the bucket provided for wastewater collection is too high and difficult for workers to use the shower properly.
Recommendation for Immediate Action	1.1. Clearly indicate the instruction for opening and closing the fire water pipe valve and post the tag of (keep open) the valve. 1.2. Repair the ground fault of the fire alarm system to prevent any errors that can disrupt the functioning of the fire alarm system. 2. Equip a proper container to collect the wastewater for emergency shower at the chemical storage area properly.
Compliance Classifications	Immediate Action Required

Local Law	1.1 & 1.2. Law No. 27/2001/QH10, Article 52. 2. Not applicable
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.
Finding Details	1.1. The factory has submitted the accident reports to the local authority. However, it was not submitted on time. The first semester of the reports shall be submitted by July 5th instead of July 7th. In addition, the annual report of 2022 was submitted on January 13th instead of by January 10th which was required by the local regulation. 1.2. The operation key of one forklift was not removed when not being in use as per factory regulation to prevent unauthorized/unexpected use for safety reasons. 1.3. There is no deep-water warning sign posted in place at the deep lake to warn of drowning risk.
Recommendation for Immediate Action	1.1. Submit the required HSE reports to the local authority on time as per law. 1.2. Remove the operation key of the forklift when not in use. 1.3. Post the warning sign at the deep lake for safety reasons.
Compliance Classifications	Immediate Action Required
Local Law	1.1. Decree No. 39/2016/ND-CP, Article 24. 1.2. Vietnam Labor Law 2019, Article 5(c). 1.3. Not applicable
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	At least 5 (five) out of 7 (seven) observed manual forklifts were not equipped with safety warning signs.
Recommendation for Immediate Action	Place safety warning signs for all manual forklifts.
Compliance Classifications	Immediate Action Required

Local Law	Law 84/2015/QH13. Occupational Safety and Hygiene, Article 16.
Hours Of Work (HOW)	
Benchmark ID	HOW.15
Benchmark Details	Employers shall not impose any sanction on workers for requesting or taking any type of leave, such as annual, sick, or maternity, in line with all applicable rules and procedures.
Finding Details	1 (One) out of 8 (eight) selected sample workers was not approved to take annual leave on May 13, 2023, even though she applied for the leave on May 12, 2023, in accordance with the factory policy (one-day advance notice).
Recommendation for Immediate Action	Provide annual leave for workers if they follow the factory annual leave policy and procedure.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 113.

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