

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

18 Sep 2023



Factory Information

FLA Affiliates	Nike, Inc
Country	Vietnam
Number of Workers	1405

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)	4
Forced Labor (F)	1
Freedom Of Association And Collective Bargaining (FOA)	1
Harassment Or Abuse (H/A)	1
Health, Safety And Environment (HSE)	6

Assessment Information

Assessor	Openview - Vietnam
Assessment Date	18 Sep 2023

Assessment Purpose	
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ASSESSMENT RESULTS

Employment Relationship (ER)

Benchmark ID	ER.2
Benchmark Details	Employers shall ensure that all legally mandated requirements for the protection or management of special categories of workers, including migrant, juvenile, contract/contingent/temporary, probationary workers, home workers, and pregnant or disabled workers, are implemented. Where local laws and FLA standards differ, the employer is expected to follow the highest applicable standard.
Finding Details	The factory signs indefinite contracts with all current pregnant worker or workers who are nursing children under 12 months old. However, the factory does not monitor if pregnant or nursing workers are prioritized when renewing contracts when the labor contract ends, as per law.
Recommendation for Immediate Action	Ensure that policies and procedures enforce that labor contracts are renewed for pregnant workers or workers nursing children under 12 months old.
Compliance Classifications	Immediate Action Required
Local Law	Point 3, Article 137 of the Vietnam Labor Code
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 not developed procedure to handle the cases of forced labor found in the factory, including the steps to discipline for the violation related to forced labor policy. 2. The factory has not developed procedure to handle the cases of child labor violation including the steps to discipline for the violation related to child labor policy. 3. The factory has established the switching weekly day-off policy (see document No. 16/CS-VH). However, there is no policy and procedure to guide how to calculate the wage and benefit for these cases to prevent the wrong payment during the implementation.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 has not developed written procedures to implement for 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	
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 factory conducts the monthly performance review for workers. However, there is no detailed record or data of the evaluation to prove how to figure out the final results for each worker based on the established criteria.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Forced Labor (F)

Benchmark ID	F.2.1
Benchmark Details	All workers shall have the right to enter into and to terminate their employment freely.
Finding Details	The policy on resignation/termination (No.11/CS-VH) issued on December 31, 2022 indicates that if workers leave their jobs without reasonable notice for 5 consecutive days, and if the factory cannot contact them, the factory will terminate their labor contracts by the factory side and inform to the workers about the termination. However, as a general practice, the factory automatically terminates the labor contracts of workers if they leave the job for 5 consecutive days. There is no record of contacting workers or informing workers about termination. The only documentation provided for review were the payment records for those cases of workers.
Recommendation for Immediate Action	Follow the established procedure to contact workers for contract termination process and keep records of informing workers in cases the factory terminates their labor contracts.

Compliance Classifications	Immediate Action Required
Local Law	Point 3, Article 36 of the Vietnam Labor Code

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	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. [FOA.2, FOA.10]
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Harassment Or Abuse (H/A)

Benchmark ID	H/A.8.3
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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 specific regulation and procedure to discipline 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 internal rules.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Health, Safety And Environment (HSE)

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	Identification labels of all five bags of caustic soda flakes in chemical storage area of wastewater treatment plant are not in local language.
Recommendation for Immediate Action	Ensure to provide chemical label in local language for all chemicals.
Compliance Classifications	Immediate Action Required
Local Law	Decree No. 113/2017/ND-CP, Article 5; QCVN 05:2020/BCT, Clause 7.2; Circular No. 17/2022/TT-BCT, Article 1(4a).

Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	1. There is no warning sign for forklift hazards and no designated forklift traveling routes at warehouses. Factory explains that there is only standup forklift working in the warehouse. The forklift has functional alarms and alarm lights that are on to notify workers. 2. One rolling ladder at material warehouse is not in good working condition. At least four steps are out of shape (bent down) as a result of heavy loading and unloading activities. 3. All two heat transfer machines at sewing workshops do not have safety mechanism to minimize the risk of crushing hazard or burn hazard when operating the machines. Though the factory has posted safety instruction in local language, two observed workers use auto-mode instead of using dual pressing buttons when operating the machines to ensure safety.
Recommendation for Immediate Action	1. Ensure to post warning sign for forklift hazards and mark forklift travelling routes at warehouses. 2. Ensure all portable ladders are in good working conditions. 3. Ensure to install and use safety mechanism on heat transfer machines.
Compliance Classifications	Immediate Action Required
Local Law	1. Law No. 84/2015/QH13. Occupational safety and hygiene. Article 16(6). 2. Law No. 84/2015/QH13. Occupational safety and hygiene. Article 16 (1, 5) 3. Law No. 84/2015/QH13. Occupational safety and hygiene. Article 16 (1, 5)
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) The factory has only set a goal to replace HCFC-22 (R-22) but there is no implementation plan for phasing-out HCFC-22 used in air conditioners and refrigerant devices in the factory. (2) There is insufficient health check for workers. The factory provided health check on June 15, 2023 to only 1,365 out of 1,428 eligible workers. The factory explained that the factory has signed a contract with nearby hospital on September 20, 2023 and developed a list of employees who have not received medical examination in June 2023 to provide additional health check but the records were not kept in place for review during the assessment date.
Recommendation for Immediate Action	1. Develop and carry out plan for phasing-out HCFC-22 used in air conditioners and refrigerant devices in the factory. 2. Provide the required health checks to all workers on a semi-annual basis.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 84/2015/QH13. Occupational safety and hygiene. Article 21 (1,2)
Benchmark ID	HSE.29
Benchmark Details	Employers shall provide all necessary protection for workers when working at heights, confined spaces, and other high-risk areas.
Finding Details	The factory has posted danger signs and authorized access signs for the confined spaces but there is no lock to prevent unauthorized entry to confined spaces of underground water reservoir at material warehouse.
Recommendation for Immediate Action	Install locks to prevent unauthorized entry to all confined spaces.
Compliance Classifications	Immediate Action Required
Local Law	QCVN 34:2018/BLDTBXH, Clause 2.2
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 factory does not effectively track and record the traffic accidents which are considered as labor accidents, as per legal requirement. For instance, an interviewed worker informed the assessor that he got into a traffic accident on the way home from the factory one day in July 2023. After checking the worker's payment and attendance sheet, it shows this worker took 13 days off in July 2023 for sick leave with all the payment records for medical cost paid by the factory. But the factory did not record this in the labor accident reports. The factory management explained that the worker did not share that the accident was a traffic accident that occurred after leaving the factory to return home and the HR team did not know the case would be considered a labor accident.
Recommendation for Immediate Action	Monitor and record all labor accidents with proper investigation and compensation settlement as per legal requirements.
Compliance Classifications	Immediate Action Required
Local Law	LAW 84/2015/QH13. Occupational Safety and Hygiene, Article 35
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 insufficient backrest chair to reduce repetitive-motion stress for prolonged seating jobs (sewing, heat transfer) at sewing workshops. The factory has only provided backrest chair to 33% sewing workers, as per factory statistics. The factory has set a goal to provide 100% backrest chairs to prolonged seating jobs in December 2023 but there is no detailed implementation plan to achieve that goal.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

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