

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

20 Sep 2023



Factory Information

FLA Affiliates	Pou Chen Corporation
Country	Vietnam
Number of Workers	5333

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

FLA Code Element	Number of Violations
Compensation (C)	1
Employment Relationship (ER)	7
Freedom Of Association And Collective Bargaining (FOA)	2
Harassment Or Abuse (H/A)	1
Health, Safety And Environment (HSE)	13
Hours Of Work (HOW)	2

Assessment Information

Assessor	Openview - Vietnam
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Assessment Date	20 Sep 2023
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Assessment Purpose	
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ASSESSMENT RESULTS

Compensation (C)

Benchmark ID	C.6
Benchmark Details	All wages, including payment for overtime, shall be paid directly and in full within legally defined time limits. When no time limits are defined by law, compensation shall be paid at least once a month.
Finding Details	<p>1. Two (2) out of five (5) sample selected workers are paid for labor accident compensation or benefit on seventeenth (17) and forty-sixth (46) day after the receipt of the medical assessment reports from Medical Assessment Councils. As per legal requirement, workers should be paid within ten working (10) days from the day of receipt of the medical assessment reports from Medical Assessment Councils on percentage of work capacity reduction for serious occupational accidents or from the day on which Incident Investigation Teams of provinces or central authorities organize meetings about publicizing minutes of grassroots-level incident investigation for fatal accidents. 2. The factory negotiated with all workers to stop working for four (4) days from March 1, 2023 to March 4, 2023 due to no orders and workers were paid the legal minimum wage of VND180,000 per day which is less than their contract wages. Meanwhile, the law requires that workers should be paid in full wages as stated in the labor contracts in these cases.</p>
Recommendation for Immediate Action	1. Re-check to ensure to pay the labor accident compensation or benefit to workers on time as per law required. 2. Pay all workers full wages as stated in the labor contract during work suspension due to no orders.
Compliance Classifications	Immediate Action Required
Local Law	1. Law No. 84/2015/QH13, Article 38; Circular No. 28/2021/TT-BLDTBXH, Article 7. 2. Vietnam Labor Code No. 45/2019/QH14, Article 99, Point 1.

Employment Relationship (ER)

Benchmark ID	ER.11.2
Benchmark Details	Employers must ensure the following minimum terms and conditions are met in the employment of contract/contingent/migrant/temporary workers: Contract/contingent/migrant/temporary workers shall be provided an employment agreement in their native language setting out the employment terms and conditions. for migrant workers, a copy of their employment contract in their native language shall be provided prior to departure from their country of origin;
Finding Details	The incentive bonuses, living allowances, and diligent bonus are not stated in the employment contract as per required by laws.
Recommendation for Immediate Action	Update the contents of labor contract as per legal requirements.
Compliance Classifications	Immediate Action Required
Local Law	Circular No. 10/2020/TT-BLDTBXH, Article 3.
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 a written procedure to handle the violations related to the anti-forced labor policy. 2. The factory has not developed a written procedure to handle the violations related to the anti-child labor policy. 3. The factory has not developed a written policy and procedure governing all aspects of Retrenchment. The factory just has the written policy and procedure on Termination.

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	Factory internal labor regulation was registered with the local authority on April 1, 2021, but the rules does not include the primary contents as per legal requirements. There are missing contents of occupational hygiene and safety in the workplace such as responsibility to comply with rules and regulations; procedures and measures for assurance, occupational safety and fire safety; cleaning, decontamination, and disinfection at the workplace. In addition, Chapter 2 of the internal labor rules for Recruitment and Termination, point 2.1.2.1 indicates that workers should submit the recruitment announcement to maintain in their personal profiles, but in practice workers are required to submit the hiring offer letters.
Recommendation for Immediate Action	Review and update the factory internal labor rules with inclusion of mandatory contents as per local laws.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 118 and Decree No. 145/2020/ND-CP, Article 69.
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	Factory has not developed a written policy and procedure on personnel development that encourages 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 has not developed a written policy and procedure regarding performance reviews.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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	Records shows that one sample selected worker, who is trainee leader since July 25, 2014, submitted a voluntary demotion letter on February 15, 2023 to be a worker since March 1, 2023. There is no any evaluation record kept during his training period of more than ten years as a trainee leader. In practice, the worker is only promoted to group leader based on the decision of his team leaders and there is no position as a trainee leader stated in the factory's policies and procedures.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.18.3.4
Benchmark Details	Records of disciplinary action must be maintained in the worker's personnel file.
Finding Details	The records of labor disciplinary actions are not maintained in the workers' personnel files. The records are maintained in a separated area in the HR Department's room.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

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	The factory has not developed a written procedure to handle the violations related to Freedom of Association and Collective Bargaining policy.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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.2
Benchmark Details	Employers shall not use monetary fines and penalties as a means to maintain labor discipline, including for poor performance, for broken or lost tools/machinery, or for violating company rules, regulations, and policies.

Finding Details	<p>As per the incentive bonus regulation, workers are provided with the monthly incentive bonus where they meet the criteria of monthly target for quality and quantity of finished goods. However, the implementation is not consistent as incentive bonus is paid based on another criteria: attendance and discipline, which are not mentioned in the regulations. The details are as follow: 1. Workers are paid 50% of their monthly incentive bonus if they are absent from their work due to sick leave and maternity leave from 32 to 48 hours in a month, and no incentive bonus if they take sick leave for more than 48 hours in a month. 2. Workers who take unpaid personal leave more than 16 hours and less than 32 hours are paid 50% of their monthly incentive bonus, and no incentive bonus if workers take unpaid leave for 32 hours or more in a month. 3. No incentive bonus payment for workers who are absent from their work without permission. 4. Workers who are late for work or leave earlier than their normal working hours from three (3) to four (4) times in a month are paid 50% for incentive bonus and no incentive amount if they are late for work or leave earlier than their normal working hours for five (5) times in a month. 5. If workers receive a reminder letter, the incentive bonus is only paid at 50% and no incentive bonus if workers have two (2) or more reminder letters in a month.</p>
Recommendation for Immediate Action	Ensure workers are paid in full amount of incentive bonus and in line with the developed policy.
Compliance Classifications	Immediate Action Required
Local Law	Vietnam Labor Code No. 45/2019/QH14, Article 90, 104, 127 and Circular No. 10/2020/TT-BLDTBXH, Article 3

Health, Safety And Environment (HSE)

Benchmark ID	HSE.5.1
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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	The fire-fighting map in the center of the fire-fighting area does not indicate the location of K9 building (a 4-story building).
Recommendation for Immediate Action	Revise the firefighting map to be ready for fire emergency response.
Compliance Classifications	Immediate Action Required
Local Law	Not applicable
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	Five (5) chemical drums (paint) in the unused machine storage area of the Wastewater Treatment Plant (WWTP); three (3) chemical cans in the security room; two (2) chemical bottles in the cutting area and in the office room in K9-3F; four (4) chemical bottles in the cutting (K9-4F) and three (3) chemical bottles (glue) in the electromechanical room (K7-3F) are not provided with secondary containers.
Recommendation for Immediate Action	Provide the secondary containers for all chemical used and stored in the factory.
Compliance Classifications	Immediate Action Required
Local Law	Article 30 of Law on Chemical 2007

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	1. Two (2) worker toilets near the waste storage area and in K9-3F are not hygienic and tidy. Trash and objects block the urinals and hand wash basin. 2. Two (2) fire alarms on the 2nd floor and one (1) fire alarm on the 3rd floor of child care building do not work during the onsite testing. Upon checking, it is noted that the fire alarm system is turned off during the sleeping time of the kids. The kindergarten is located separately, outside all production buildings.
Recommendation for Immediate Action	1. Not applicable 2. Ensure fire alarms are always in working condition.
Compliance Classifications	Immediate Action Required
Local Law	1. Not applicable 2. Article 52, Law No. 27/2001/QH10 – Fire safety; Article 40, Decree No. 136/2020/NĐ-CP.
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	1. The factory does not clearly mark the walk paths and traffic lanes throughout the factory premises for internal traffic safety. 2. The locking devices of wheels of one moving stair in the materials warehouse in (K6-4F) are not functional and safe for use, it cannot lock the wheels securely.
Recommendation for Immediate Action	1. Not applicable 2. Repair the locking devices of the moving stair for safety reasons.
Compliance Classifications	Immediate Action Required

Local Law	1. 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. The fire fighting equipment maintenance records by a qualified external third party dated June 28, 2023 showed that only 596 sprinklers were inspected while there are a total of 872 sprinkler heads noted in the factory internal fire fighting equipment reports. The factory carries out the maintenance service for the fire fighting equipment every 6 months. 2. The pressure of eyewash at the waste storage area is not appropriate. The water pressure is too high for a safety use of workers. There are no emergency showers in all four (4) glue mixing rooms.
Recommendation for Immediate Action	1. All fire fighting equipment should be inspected by a qualified third party. 2. Ensure water pressure of the eyewash station is safe for use and install the emergency showers for all ink mixing rooms.
Compliance Classifications	Immediate Action Required
Local Law	1. TCVN 3890:2009, Clause 7.2.2. 2. Circular 19/2016/TT-BYT, Article 05 and QCVN 05:2020/BCT, Clause 5.9
Benchmark ID	HSE.4.1
Benchmark Details	Employers shall at all times be in possession of all legally required and valid permits and certificates related to health, safety, and environmental issues, such as: Purchase and storage of chemicals; Fire safety inspections; Machinery inspections; Waste disposal; Environmental licenses/permits; Sanitation permits, including those required for canteens; and Vehicle inspection and driver permits for all employer provided transportation.

Finding Details	1. There is no fire safety design approval certificate and fire safety acceptance certificate for the firefighting system of the motorbike parking lot T3 as required in the firefighting police inspection conducted on May 18, 2023. 2. The factory has not obtained the fire safety acceptance certificate for the renovation of the firefighting system at Workshop K6 (3F) and Workshop K7 (RF) as required in the firefighting police inspection conducted on May 18, 2023.
Recommendation for Immediate Action	Work with Firefighting Police to obtain the fire safety certificates for these areas.
Compliance Classifications	Immediate Action Required
Local Law	Decree No. 136/2020/ND-CP, Article 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 OHS risk assessment does not cover all associated risks: a. The factory has not updated the new risk from an accident in the latest OHS risk assessment. The camera pole fell in a building noted in the accident report issued on March 25, 2023, the new risk was identified and communicated with relevant workers during meeting on July 20, 2023. However, the risk was not included in the updated OHS risk assessment records dated September 04, 2023 to identify for the appropriate preventive measures. b. The factory does not include the identified fire risks in the approved fire-fighting plan from the local fire police in the fire risk assessment records for the inclusion of proper countermeasure accordingly. Risks of smoke inhalation, toxic gases, and heat radiation are not covered in the OHS risk assessment. c. The factory does not evaluate the asbestos risk in the assessment and identify countermeasure if any. 2. No ventilation fan is installed in the two glue mixing rooms in (K9-3F) and (K9-4F) to exhaust vapor from the chemical room to outdoor.
Recommendation for Immediate Action	1. Update the risk from all accident into the OHS risk assessment. Include the fire risks in the approved fire fighting plan to identify the risk level and the proper countermeasure accordingly. 2. Install the proper ventilation fans in the all glue mixing rooms.

Compliance Classifications	Immediate Action Required
Local Law	1. Circular 07/2016/TT-BLDTBXH, Article 3; Circular 07/2016/TT-BLDTBXH, Article 3. 2. QCVN 05:2020/BCT, Clause 8.2.2. 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	Warning signs and safety instructions are not displayed properly: a) the warning sign of restricted use at cage ladders has faded; b) no warning signs of falling risk are posted at least on three cage ladders at the wastewater treatment plant; c) no authorized person list is posted in the medical waste room and glue mixing room (K9-3F) to prevent unauthorized access; d) at least two observed manual forklifts are not posted with the safety instructions in K9-2F.
Recommendation for Immediate Action	Post the safety warning signs and instructions on all machines, equipment and areas sufficiently and effectively.
Compliance Classifications	Immediate Action Required
Local Law	Article 16 of Law No. 84/2015/QH13 on Health and Safety
Benchmark ID	HSE.3.1
Benchmark Details	Employers shall notify the relevant national and/or local authorities of all illnesses and accidents and environmental emergencies as required by applicable laws.
Finding Details	The factory does not report one (1) case of fatal occupational accident (traffic accident on her way to the factory) on January 11, 2023 in the occupational accident report for the first six months of 2023 as per legal requirement.
Recommendation for Immediate Action	Report all fatal occupational accidents to the local authority as per legal requirements.

Compliance Classifications	Immediate Action Required
Local Law	Decree No. 39/2016/ND-CP, Article 24.
Benchmark ID	HSE.5.4
Benchmark Details	The emergency evacuation plan (EEP) includes procedures for notifying local community authorities in case of accidental discharge or release of chemical/waste products or any other environmental emergency.
Finding Details	There is no spill kit provided for chemical emergency in the glue mixing room (K9-3F).
Recommendation for Immediate Action	Equip the spill kit (sand, fabric) to be ready for any chemical emergency.
Compliance Classifications	Immediate Action Required
Local Law	Law on Chemicals (No. 06/2007/QH12). Article 37
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	The workers do not use personal protective equipment sufficiently as follows: a) two (2) workers were observed not using hand gloves when working with chemical bottles in cutting area (K9-3F); b) three (3) chemical workers do not know how to use respirators properly in the L5 area, K9-3F and in K6-2F; c) all workers who work with glue spraying machines are not provided with eye protection devices.
Recommendation for Immediate Action	Provide and monitor to ensure workers use PPE sufficiently and effectively.

Compliance Classifications	Immediate Action Required
Local Law	Law 84/2015/QH13. Occupational Safety and Hygiene, Article 7
Benchmark ID	HSE.10.2
Benchmark Details	Workers shall have free access to MSDS.
Finding Details	There is no MSDS for all chemicals (paint, ink and glue) in RMCC-Waste Storage area.
Recommendation for Immediate Action	Post MSDS (in the local language) of respective chemicals in the chemical storage areas.
Compliance Classifications	Immediate Action Required
Local Law	Law on Chemicals (No. 06/2007/QH12). Article 29
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	Approximately 5% of workers are not provided with backrest chairs. The chairs provided are not height-adjustable.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Hours Of Work (HOW)	
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	Factory calculated and provided insufficient annual leave for 80 new workers who did not work for the full 12 months in 2022 as detailed below: The factory annual leave regulation is: eligible annual leave days/ 365 days * actual working days in the year. The results are rounded down if less than 0.45 and rounded up if equal or higher than 0.45 which results less annual leave provided to workers comparing with the legal calculate method as eligible annual leave days/ 12 months * actual working months in the year. For instance, one sample selected worker joined factory on February 12, 2022. The factory calculated and provided annual leave in 2022 to worker by: 14 days * 322 days/ 365 days = 12.35 days, rounded down to 12 days, meanwhile she should be provided the annual leave by: 14 days * 11 months/12 month = 12.83 days as per legal requirement.
Recommendation for Immediate Action	Re-check and use the correct formulas to calculate the annual leave for new workers.
Compliance Classifications	Immediate Action Required
Local Law	Decree No. 145/2020/ND-CP, Article 66.
Benchmark ID	HOW.12.2
Benchmark Details	The time at which annual leave is taken is determined by employers in consultation with workers, taking into account work requirements and the opportunities for rest and relaxation available to workers.
Finding Details	The factory arranges workers to take 6 annual leave days in a year according to the annual leave plan after negotiation with the trade union. However, the factory does not negotiate with workers or trade union about the salary deduction for the implementation in case of workers taking more annual leave days than their annual entitlement, such as new workers.
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	

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