

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

10 Jul 2024



Factory Information

FLA Affiliates	Amer Sports,Lululemon Athletica Inc.,MEC Mountain Equipment Company
Country	Vietnam
Number of Workers	4000

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)	3
Employment Relationship (ER)	6
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	13
Hours Of Work (HOW)	2
Nondiscrimination (ND)	2

Assessment Information

Assessor	Openview - Vietnam
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Assessment Date	10 Jul 2024
Assessment Purpose	Factory Assessment (In-Person)

ASSESSMENT RESULTS

Compensation (C)

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	The factory applies a fixed calculation of 26 working days to determine overtime payments, even for months with fewer working days. This practice results in underpayment for overtime in months like February 2024 (25 working days) and June 2024 (25 working days). For example, a worker with 10 hours of normal overtime in February 2024 was paid VND 334,952 instead of the correct amount of at least VND 346,750.
Recommendation for Immediate Action	Adjust the calculation of overtime payments to reflect the actual number of working days in each month, ensuring compliance with local laws and accurate compensation for overtime worked.
Compliance Classifications	Immediate Action Required
Local Law	Decree 145/2020/ND-CP, Article 54 and 55
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	1. The factory deducts a full 30 minutes if workers are late or leave early by 16 to 30 minutes, instead of only deducting the actual time missed. For example, on June 3, 2024, a worker who logged in at 7:46 a.m. was penalized 30 minutes, even though they were only 16 minutes late. 2. The factory implemented a wage scale with seven levels, effective August 15, 2022. However, the factory does not have policy or criteria for reviewing and increasing wages as per legal requirement.

Recommendation for Immediate Action	1. Compensate workers based on their actual working hours. 2. Develop a policy, procedure, or criteria to review and increase wage levels in line with the established wage scale.
Compliance Classifications	Immediate Action Required
Local Law	1. Labor Code, No.45/2019/QH14, Article 94 2. Labor Code, No.45/2019/QH14, Article 103
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	1. The factory introduced a productivity and quality bonus policy in April 2024, with calculations made at the end of the month. However, for resigned workers, these bonuses are paid on the payday of the following month instead of within 14 working days after resignation, as legally required. For example, a worker who resigned on June 5, 2024 received the payment on July 7, 2024, in cash, outside the legal timeframe. Additionally, there is no confirmation in the payment records showing when workers received their payments, making it difficult to review. 2. The factory provides a 60-minute breastfeeding break for childbearing workers but lacks an effective mechanism to ensure all workers take their breaks or are compensated if they work instead. HR staff log workers who take breaks in designated areas, such as the clinic or workshop rest area, but do not monitor those who stay at their workplace. Workers confirmed that if they rest at their workstation, the factory does not track their break time, and they may choose to work to increase their productivity.
Recommendation for Immediate Action	1. Pay the productivity and quality bonus for resigned workers within 14 working days from the resignation date, as per legal requirements. 2. Ensure all childbearing workers receive their 60-minute breastfeeding break or provide extra payment if they work during this time, in accordance with local laws.
Compliance Classifications	Immediate Action Required

Local Law	1. Labor Code, No.45/2019/QH14, Article 48 2. Labor Code, No.45/2019/QH14, Article 137; Decree 145/2020/ND-CP, Article 80
Employment Relationship (ER)	
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	The factory does not provide training or communication to security staff, management, or foreign technical workers on FLA's Code elements and Employment Functions.
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	1. The factory has established 39 policies and procedures, including recruitment, discipline, information security, and retrenchment. However, these documents are only stamped and lack signatures or confirmation from top management, indicating they have not been formally approved for implementation. 2. The factory has established a policy and procedure for child labor, but they have not yet been approved or signed by management. Additionally, the current child labor procedure does not include on-site suppliers, such as canteen and security staff, who work at the factory.

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 does not have policies or procedures for personnel development that promote ongoing training to enhance or expand workers' skills for career advancement.
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	1. The factory does not conduct performance reviews for its workers. 2. The factory lacks policies and procedures for performance reviews, including steps and processes, job grading linkages, non-discrimination measures, and written feedback from workers.

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	The factory lacks policies and procedures for promotion, demotion, and job re-assignment, which affects effective implementation. Decisions on these matters are primarily made by direct managers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.1.3
Benchmark Details	Employers should implement an annual, review process with input from workers of all policies, procedures and their implementation to ensure they meet legal requirements and the FLA Workplace Code.
Finding Details	1. The factory's retrenchment procedure does not include a step for consulting with worker or union representatives before finalizing decisions. 2. There are no records indicating that the factory consults workers on decisions related to workplace and working conditions, such as policy changes, production process modifications, or adjustments to work hours.

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	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	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Health, Safety And Environment (HSE)

Benchmark ID	HSE.30.1
Benchmark Details	Employers shall develop, maintain, and regularly review health, safety, and environmental policies to ensure that they comply with all national laws, regulations and the FLA Workplace Code concerning health, safety, and environmental standards, regulations and procedures.
Finding Details	There is no policy or procedure in place for monitoring the expiration dates of medicine and first aid equipment.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 evacuation drills twice a year but lacks a mechanism to review and provide training or communication on emergency drill procedures for workers who are absent. For instance, 187 workers at VSIP workshop did not receive training or communication after missing the fire evacuation drill on July 17, 2023, and approximately 300 workers missed similar training after the drill on February 15, 2023, at the Branch workshop. Additionally, no fire evacuation drills have been conducted for the 38 workers on the night shift.
Recommendation for Immediate Action	<ol style="list-style-type: none"> 1. Conduct fire evacuation drills for all workers including nightshift. 2. Provide training or communication on fire drill procedure for workers who are absent during the regular fire drills.
Compliance Classifications	Immediate Action Required

Local Law	Circular 149/2020/TT-BCA, Article 10
Benchmark ID	HSE.5.1
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	1. The emergency exit routes in workshop B and C (sewing section) are between 0.7 and 0.85 meters in width, while they should be at least 0.9 meters wide as required by law. 2.The emergency exit doors are not fire-resistant or equipped with smoke seals.
Recommendation for Immediate Action	1. Increase the width of emergency exit routes in workshop B and C (Sewing section) to at least 0.9 meters to meet legal requirements. 2. Install fire-resistant doors with smoke seals for all emergency exits to ensure they meet safety standards
Compliance Classifications	Immediate Action Required
Local Law	QCVN 06:2022/BXD, Appendix G, Clause G.2.2
Benchmark ID	HSE.5.1.6
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following elements: evacuation procedures and fire drills
Finding Details	The factory conducted internal fire drills for the VSIP workshop on March 29, 2024, and Highway workshop on February 19, 2024. However, there was no detailed assessment conducted afterward to evaluate and improve the fire drill and evacuation process.
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	
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 back-up battery for the fire alarm control panel in the security room at the main gate fails to function when switching from the supplied power source to the battery source.
Recommendation for Immediate Action	Recheck and replace or repair the back-up battery to ensure the fire alarm control panel operates continuously, 24/7.
Compliance Classifications	Immediate Action Required
Local Law	Decree No. 136/2020/NĐ-CP, Article 5.
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 site tour assessment, the following obstructions were observed: 1. One of the three emergency exit routes on the 2nd floor of the Delta workshop is blocked by materials. 2. Two of the four fire hoses and two of the six fire alarm call points in the parking lot are obstructed or partially obstructed by motorbikes.
Recommendation for Immediate Action	1. Remove materials obstructing the emergency exit route on the 2nd floor of the Delta workshop to ensure clear access. 2. Relocate motorbikes that are blocking fire hoses and fire alarm call points in the parking lot to ensure these critical safety equipment are fully accessible.

Compliance Classifications	Immediate Action Required
Local Law	Law No.:40/2013/QH13, Clause 8, Article 1; QCVN 06:2022/BXD, Clause 1.4.16
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	During the site tour assessment, the following issues were observed: 1. Two wheels on one forklift were worn but had not been replaced. 2. The operation key was not removed when the forklift was not in use, potentially allowing unauthorized access. 3. Both observed forklifts had carton boxes added for sunshade, which could obstruct overhead visibility during operation.
Recommendation for Immediate Action	1. Replace worn wheels on forklifts promptly to ensure safe operation. 2. Remove the operation key when forklifts are not in use to prevent unauthorized access. 3. Remove carton boxes used for sunshade on forklifts to avoid obstructing overhead visibility during operation..
Compliance Classifications	Immediate Action Required
Local Law	1. QCVN 02:2020/BCA, Article 2.1.10 2. QCVN 25: 2015/BLĐTBXH, Article 3.6.4
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	There is no record of checking the weight of CO2 fire extinguishers to ensure they are properly maintained and functional.

Recommendation for Immediate Action	Implement a procedure to regularly check and record the weight of CO2 fire extinguishers to ensure they are properly maintained and functional.
Compliance Classifications	Immediate Action Required
Local Law	TCVN 7435 - 2:2004, Point 4.2.2
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	The factory has not obtained building permits from authorities for a flat building of approximately 36 sqm used as an air compressor room since 2019 and for a flat building of approximately 200 sqm used as a factory material warehouse.
Recommendation for Immediate Action	Obtain the building permits or relevant documents for all buildings in the compound as per legal requirements.
Compliance Classifications	Immediate Action Required
Local Law	Law No.62/2020/QH14, Clause 30, Article 1
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.

<p>Finding Details</p>	<p>1. Cracks approximately 1 centimeter wide were observed at the wall corners from the ground to the mezzanine floor in Alpha workshop, where the pressing section on the ground floor accommodates around 80 workers and the sample section is on the mezzanine floor. The building was constructed in 2018. 2. The factory has not obtained inspection certificates from a qualified third party for the pressure tanks at the fire pump stations: two tanks (8.5 bar) at VSIP workshop and one tank (7.5 bar) at the Branch workshop. 3. The diesel fire pumps at both VSIP workshop and Branch workshop are not grounded or earthed, which is required for safety. 4. The factory has not taken any steps to ensure that workers are not exposed to asbestos. There is no specific policy, assessment, or testing report to determine if the facility's materials contain asbestos.</p>
<p>Recommendation for Immediate Action</p>	<p>1. Conduct the construction quality inspection to determine the safety status of the buildings. 2. Obtain inspection certificates of all restricted equipment as per legal requirements. 3. Ensure all equipment and machine are grounded. 4. Establish policy, assessment, or testing to identify if facility's material contains asbestos.</p>
<p>Compliance Classifications</p>	<p>Immediate Action Required</p>
<p>Local Law</p>	<p>1. TCVN 9381:2012, Clause 5.2; QCVN 02:2020/BCA, Article 2.1.10 2. Decree No. 44/2016/NĐ-CP, Article 16 3. Occupational Health and Safety Law, Article 16.</p>
<p>Benchmark ID</p>	<p>HSE.12</p>
<p>Benchmark Details</p>	<p>Employers shall ensure that women are not engaged in work that constitutes a substantial risk to their reproductive health.</p>
<p>Finding Details</p>	<p>Approximately 15% of workers in the sewing section, ironing section, and feather filling section are not provided with back-rest chairs, despite working in a seated position for most of their working hours.</p>
<p>Recommendation for Immediate Action</p>	<p>Provide back-rest chairs to ensure workers are protected from the adverse effects of long periods of seated work.</p>

Compliance Classifications	Immediate Action Required
Local Law	Law No. 84/2015/QH13, Article 06
Benchmark ID	HSE.30.2.6
Benchmark Details	The health, safety, and environmental policies shall contain the framework for a comprehensive health, safety, and environmental management system including a HS&E risk assessment within which the following are clear and regularly tested and reviewed:protections to workers who allege health, safety, and environmental violations;
Finding Details	The factory conducted an occupational health and safety (OHS) risk assessment in May 2024. However, this assessment did not address the risks associated with fire in the feather filling and sewing sections, pressing machines at VSIP workshop, feather filling section, or the potential hazard of LPG gas tank falling at Highway 1 workshop.
Recommendation for Immediate Action	Analyze and conduct a comprehensive occupational health and safety (OHS) risk assessment to cover all potential risks within the factory compound.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 84/2015/QH13, Article 77.
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 factory does not provide Group 3 OHS training for 58 electric boiler operators and seven maintenance staff who work at heights over 2.0 meters and in confined spaces, as required by law. 2. The factory does not provide electrical safety training and certification for seven workers who perform electrical maintenance, in compliance with legal requirements.

Recommendation for Immediate Action	1. Provide safety training for boiler operators, workers who perform tasks at heights over 2.0 meters, and those working in confined spaces. 2. Provide the electrical safety training and certificates for electrical maintenances.
Compliance Classifications	Immediate Action Required
Local Law	1. Decree 140/2018/NĐ-CP, Article 1, Point 5 2. Circular 05/2021/TT-BCT, Article 4

Hours Of Work (HOW)

Benchmark ID	HOW.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning hours of work, public holidays and leave.
Finding Details	The factory has assigned workers to shifts from 14:00 to 22:00 at Delta workshop starting May 2024, and from 22:00 to 6:00 at Alpha workshop starting June 2024. However, these shifts have not been registered in the factory's regulations as required by law.
Recommendation for Immediate Action	Register the new working shifts in the factory's regulations and obtain approval from the local government department.
Compliance Classifications	Immediate Action Required
Local Law	Labor Code, No.45/2019/QH14, Article 118
Benchmark ID	HOW.3
Benchmark Details	Employers shall provide reasonable meal and rest breaks, which, at a minimum, must comply with national laws.

Finding Details	The factory does not monitor to ensure that workers are taking their entitled short breaks as required by law. During the site tour assessment, it was observed that 10% of workers in the sewing and ironing departments at the Highway workshop did not take their short break from 15:00 to 15:10 on July 11, 2024, and 15% of workers at the Delta workshop did not take their short break from 9:00 to 9:10 on July 12, 2024. Workers confirmed during interviews that they skip their breaks to meet targets and earn higher productivity bonuses.
Recommendation for Immediate Action	Monitor to ensure all employees take their short breaks as specified in the factory's regulations.
Compliance Classifications	Immediate Action Required
Local Law	Labor Code, No.45/2019/QH14, Article 109

Nondiscrimination (ND)

Benchmark ID	ND.8.1
Benchmark Details	Employers shall abide by all protective provisions in national laws and regulations benefitting pregnant workers and new mothers, including provisions concerning maternity leave and other benefits; prohibitions regarding night work, temporary reassignments away from work stations and work environments that may pose a risk to the health of pregnant women and their unborn children or new mothers and their new born children, temporary adjustment of working hours during and after pregnancy, and the provision of breast-feeding breaks and facilities.
Finding Details	The factory provides only one lactation area instead of the required minimum of four rooms based on the number of female employees, as stipulated by law. Additionally, the current lactation room is located about 500 meters from the Delta workshop of VSIP and lacks a roof. Further investigation reveals that no female workers in the Delta workshop use the lactation room due to its distance and lack of comfort.

Recommendation for Immediate Action	Provide the lactation rooms for workers as per local laws.
Compliance Classifications	Immediate Action Required
Local Law	Decree 145/2020/NĐ-CP, Article 80, point 6.
Benchmark ID	ND.12
Benchmark Details	Employers shall take measures to reasonably accommodate workers with (chronic) illnesses, including HIV/AIDS-related illnesses, which could include rearrangement of working time, the provision of special equipment, opportunities for rest breaks, time-off for medical appointments, flexible sick leave, part-time work and return-to-work arrangements.
Finding Details	1. The factory did not provide cervical cancer screening for women workers during the health check-up in May 2024, as required by law. 2. The factory has not obtained health check-up records for 21 out of 39 canteen staff, which are needed for review.
Recommendation for Immediate Action	1. Provide cervical cancer screening for women workers in health check-up as per legal requirements. 2. Provide health check-ups and keep health check records for all canteen workers.
Compliance Classifications	Immediate Action Required
Local Law	The Occupational Health and Safety Law, Article 21 & Circular 09/2023/TT-BYT

