

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**15 Aug 2024**



## Factory Information

Country	Vietnam
Number of Workers	356
FLA Affiliates	Maxport Limited

## 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)	6
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	10

## Assessment Information

Assessor	Openview - Vietnam
Assessment Date	15 Aug 2024
Assessment Purpose	



## ASSESSMENT RESULTS

### 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 provides specific training to relevant supervisors on Code elements and Employment Functions, but it does not conduct evaluations or maintain records following the training.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.17.1
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 factory's grievance policy and procedure do not include provisions for handling anonymous grievances.
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	The factory has a policy to provide a compliance bonus (bonus provided to workers if they do not violate company rules) of VND 200,000 to workers. However, the guidance procedure including steps, timeline, templates, etc. has not been developed to ensure the policy is implemented effectively.
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	1. The policy and procedure of labor discipline are not updated as per local laws and factory practice. The factory's labor discipline procedure, point 3.1 states that pregnant workers and male workers, who are nursing children less than 4 months old, are still in scope for labor discipline. These workers shall not be held against labor discipline as per laws during the pregnancy or 12-month-child nursing period. 2. The labor discipline records are not maintained in the workers' personal files and two cases of labor discipline in 2023 were not issued with labor discipline decisions.
Recommendation for Immediate Action	1. Ensure to update the labor discipline procedure. 2. Keep all labor discipline records in personal files, the decisions are made for all cases of labor discipline as per local laws.
Compliance Classifications	Immediate Action Required
Local Law	Article 122 of Vietnam Labor Code No. 45/2019/QH14 & Article 70 of Decree No. 145/2020/ND-CP
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	1. The factory has not developed written policies and procedures on personnel development that encourage ongoing training with the goal of raising or broadening workers' skills so they can advance in their careers. 2. The training procedure does not define the details for matching trainees with appropriate training content, nor has it been updated to account for the e-learning methods currently in use at the factory.
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	The factory lacks a defined policy for regularly reviewing its policies and procedures related to FLA Code elements and Employment Functions. Key processes, such as promotion and demotion, and worker engagement, have not been reviewed since 2018, while the job reassignment procedure has not been updated since 2019.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

### **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	
Compliance Classifications	Sustainable Improvement Required
Local Law	

### Health, Safety And Environment (HSE)

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. There are no "non smoking" signs in the air compressor areas. 2. The factory emergency exit doors do not have a certificate for fire-resistant smoke-sealed doors. 3. Four (4) emergency exit doors at the material warehouse are sliding doors but not open-outward doors as required.



Recommendation for Immediate Action	1. Regulate and post all non-smoking signs in all eligible areas including air compressor rooms. 2. Ensure emergency exit doors are fire-resistant, smoke-sealed doors. 3. Ensure all emergency exit doors are open-outward doors.
Compliance Classifications	Immediate Action Required
Local Law	QCVN 06:2022/BXD; Clause 3.2; Occupational Health and Safety Law, Article 16.
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	There are no emergency exit lights installed for the parking area, generator area, and fire pump station area.
Recommendation for Immediate Action	Equip emergency exit lights for all areas including parking areas, generator areas, and fire pump station areas as per laws.
Compliance Classifications	Immediate Action Required
Local Law	TCVN 13456:2022, Clause 5.1.1
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	While it is equipped for other observed electrical panels, two (2) electrical panels next to the trade union room and used for garden water pumps do not have inner safety covers.
Recommendation for Immediate Action	Install the inner safety cover for all electrical panels.

Compliance Classifications	Immediate Action Required
Local Law	Clause 7.4 of TCVN 7994-1:2009
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	There are no safety interlock devices for one (1) out of two (2) elevators at MAD building, which is used for office and sample production lines.
Recommendation for Immediate Action	Install safety interlock devices for all elevators, and lifts as per requirement.
Compliance Classifications	Immediate Action Required
Local Law	Occupational Health and Safety Law, 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	Though the factory takes action immediately, the factory has not proved effective in firefighting equipment inspection: no available testing tools for fire detectors in place, two (2) out of four (4) fire alarms buttons at material warehouse, two (2) out of seven (7) smoke detectors on the first floor of MAD building, which is used for office and sample production lines, and one (1) out of two (2) beam detectors at material warehouse were not working during the onsite test.
Recommendation for Immediate Action	1. Ensure to equip the testing tool for fire auto detectors and keep it in place. 2. Regularly inspect all fire equipment including fire alarms, fire auto detectors, etc. to ensure all fire equipment is ready in case of emergency.

Compliance Classifications	Immediate Action Required
Local Law	Decree No. 136/2020/NĐ-CP, Article 5.
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 did not obtain the fire safety acceptance certificate or equivalent documents for the sprinkler system of a building with an area of around 2,056 sqm used for the warehouse, clinic, and gym room according to the fire safety design approval on September 12, 2016.
Recommendation for Immediate Action	Work with relevant parties to obtain the fire safety acceptance certificate or equivalent documents as per laws.
Compliance Classifications	Immediate Action Required
Local Law	Decree No. 136/2020/NĐ-CP, Article
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. The factory's regular inspection does not cover all issues, there is a visible crack in the wall with around 0.4 cm width and 2.3 m length at the canteen and another visible crack in the glass wall with around 1.0m at the entrance of driver room were not found during the inspection. 2. The factory does not conduct the construction safety assessment for one 2-story building (MB building) with an area of around 600 sqm used for office and one flat building with an area of around 400 sqm used for canteen and driver room as being required by laws. 3. While the electrical panels in the production areas are grounded, there is no grounding system for electrical boxes in the wastewater treatment station. 4. The factory does not provide periodic maintenance for the electrical distribution system.</p>
<p>Recommendation for Immediate Action</p>	<p>1. Inspect to verify the impact of the cracks and identify the needed actions accordingly. 2. Conduct the construction safety assessment as per legal requirements. 3. Install grounding system for all electrical panels. 4. Conduct periodic maintenance for electrical distribution system.</p>
<p>Compliance Classifications</p>	<p>Immediate Action Required</p>
<p>Local Law</p>	<p>Article 47 of Decree 06/2021/NĐ-CP; Occupational Health and Safety Law, Article 16. Article 17 of Circular No. 10/2021/TT-BXD; TCVN 9358:2012, Clause 4.1; Circular 39/2015/TT-BCT, Article 64</p>
<p>Benchmark ID</p>	<p>HSE.14.3</p>
<p>Benchmark Details</p>	<p>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.</p>
<p>Finding Details</p>	<p>There are no safety instructions for three (3) pressing machines on the 3rd floor of MAD building, which is used for office and sample production lines. The safety instructions of the laser cutting machine are too small for workers to refer to. There is no local language (Vietnamese) for operating the buttons of the laser cutting machine.</p>
<p>Recommendation for Immediate Action</p>	<p>Develop and post all safety instructions, and identification in the local language for machines and equipment in place for workers to refer to.</p>

Compliance Classifications	Immediate Action Required
Local Law	Occupational Health and Safety Law, Article 16.
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	1. Lack of identification for confined spaces. The list of the factory's confined spaces does not include one (1) confined space area in water tanks. 2. No warning signs of falling risks are posted on the stairs in the wastewater treatment area.
Recommendation for Immediate Action	1. Identify all confined spaces to have appropriate safety control and measures. 2. Assess and post warning signs for all falling risk areas.
Compliance Classifications	Immediate Action Required
Local Law	Decree 44/2016/NĐ-CP, Article 17, Occupational Health and Safety Law, Article 16
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	The Occupational Health and Safety (OHS) Group 3 training is not provided for one out of 12 members who operate goods elevators, as required by law.
Recommendation for Immediate Action	Provide required OHS training to all elevator operators, as required by law.
Compliance Classifications	Immediate Action Required
Local Law	Decree 44/2016/NĐ-CP, Article 47

