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INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Maxport Limited

COUNTRY: Vietnam

ASSESSMENT DATE: 10/30/20

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS:

Summary of Code Violations

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.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

FLA Code Element	Number of Violations
Compensation	3
Freedom of Association	2
Employment Relationship	1
Health, Safety, and Environment	5

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The termination procedure does not specify that workers have the right to unilaterally terminate the employment in the situation that "The employee or their family encounters difficulties so that the labor contract cannot continue to be performed", as per the legal requirement. One out of the seven selected resigned workers submitted the resignation form on June 17, 2020 and quit on the same day, with the reason being the "medical treatment for her baby". However, the factory deducted ½ of her basic monthly wage for not following the prior notice requirement. [C.1]

2. It was noted that while policies and procedures for performance appraisals and salary increases were established in December 2019, these policies have not been fully implemented. Performance reviews were conducted for all employees starting at the end of 2019, but the 60 months of seniority necessary for a salary increase was counted from March 2017 regardless of the date of initial employment. March 2017 represents the date on which there was a split of business entities. A total of 414 workers joined the factory before March 2017. The practice of calculating seniority from March 2017 was communicated verbally to the assessor. This practice violates both the written performance appraisal policy and the "Tripartite agreement," which states that workers who joined prior to 2017 would receive benefits from the first day of employment, not from the time of the split between business entities. This agreement is included in the personnel files of all workers who began employment prior to 2017. [C.6, ER.29.1.1]

3. Based on the legal requirement, local minimum wage for this area is VND 3,920,000 (USD 169) per month, which refers to the monthly wage paid to a worker who performs the simplest work under normal working conditions. The lowest wage for skilled and trained workers must be at least 7% higher than the regionally based minimum wage and the wage scales for hazardous or dangerous work must be at least 5% higher than those of other positions in the normal working conditions. The factory paid VND 4,395,000 (USD 189.6) per month to workers with hazardous or dangerous work from January 2020 to May 2020, which included the 5% of heavy and hazardous allowance and the 7% of skill allowance. However, based on the legal requirement, these workers should be paid VND 4,404,120 (USD 190) per month [VND 3,920,000 (USD 169) x 1.07 x 1.05]. This error was caused by human mistakes during the establishment of the wage scales and a total of 433 workers were affected, including 409 existing workers and 24 resigned workers. The factory took the correction and retroactively paid back the difference of VND 3,066,529 (USD 132) to all affected workers on June 25, 2020. All workers have been paid with sufficient wages and allowances since June 2020 payroll including the 24 resigned workers. [C.5]

Local Law or Code Requirement

Recommendations for Immediate Action

1. <!--[endif]-->Include all the lawful unilateral termination situations for workers into the termination procedure and calculate the final payout based on the legal requirement. Provide more training to workers so that they can understand their rights for unilateral termination.
2. Ensure the performance appraisals, and salary increasing policy and procedure are implemented sufficiently as required by local laws and FLA benchmark.

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. FLA Comment: Vietnam has not ratified ILO Convention 87. Under Vietnamese law, all unions are required to affiliate with the 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]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2 and FOA.10)

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has conducted the health and safety risk assessment, but it does not cover the occupational safety hazards for the generator, air compressor and mechanic room. The factory has taken immediate remedial actions and provided a complete health and safety risk assessment report on the second day of the Virtual Check, including the generator, air compressor and mechanic room. [HSE.1]
2. The storage shelves have no loading capacity signs in the accessory warehouse. [HSE 1]
3. The factory has never provided the occupational health examination to workers working in the heavy and hazardous condition, including sewing operators, cutting operators, and inspection and packing workers. [HSE.1]
4. Both fire extinguishers in the waste storage area and one out of four fire extinguishers in the canteen are overcharged, meaning the contents are under too much pressure. [HSE 6.1]
5. The factory has provided metal gloves to all four cutting operators. However, the metal glove for one cutting operator is too wide to fit the worker's hand. [HSE.7]

Local Law or Code Requirement

TCVN-7435-1-2004, Point 5.1; Circular 07/2016/TT-BLDTBXH, Article 3 and Article 7; Circular 04/2014/TT-BLDTBXH, Article 5; Circular 28/2016/TT-BYT, Article 2 and Article 6. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.6 and HSE.7)

Recommendations for Immediate Action

1. <!--[endif]-->Conduct a health and safety risk assessment covering all occupational safety hazards and appropriate ways to eliminate and control hazards.
2. <!--[endif]-->Mark the loading capacity signs on all storage shelves in the accessory warehouse.
3. Provide the occupational health examination to workers working in the heavy and hazardous condition every six months as per the legal requirement.
4. <!--[endif]-->Conduct routine inspection of the fire extinguishers to ensure they are in good condition.
5. <!--[endif]-->Provide appropriate metal gloves which should fit the hands of the workers they belong to for best results.