



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Columbia Sportswear Company

COUNTRY: Vietnam

ASSESSMENT DATE: 07/17/18

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 958

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.

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

Based on document review, relevant worker and management interview, it is noted that working hours are not clearly detailed in the labor contracts. It states that the working hours are eight hours per day and six days per week but does not mention the starting, ending time, and rest day. In addition, the factory does not sign the annexes of labor contracts for elderly workers who are entitled to seven working hours per day. These practices violate local laws. [ER.11]

Local Law or Code Requirement

Decree 05/2014 ND-CP, Point 7 of Article 4. FLA Workplace Code (Employment Relationship Benchmark ER.11)

Recommendations for Immediate Action

1. Include information on working hours in the labor contracts and sign the annexes of labor contracts for elderly workers who are entitled to seven working hours per day.

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory should create and sign an annex of labor contracts for elderly workers who are entitled to working 7 hours per day.

Planned completion date

10/17/18

Company Action Plan Update

The factory created and signed an annex of labor contracts for elderly workers who are entitled to working 7 hours per day.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory does not ensure the minimum wage for workers during their training period. The factory paid only VND 80,000/day/ USD 3.48/day (VND 2,080,000/month/ USD 90.43/month), which is lower than the minimum wage for this area of VND 3,980,000/month/ USD 173.04/month. [C.1, C.2, C.3]
2. The two boiler operators and three electricians have to come to work 30 minutes earlier than their official working shifts. But the factory does not pay for this overtime. [C.1, C.7]
3. Piece-rate workers (about 80% of the workforce) are not paid for meetings and trainings, such as internal and external fire drills. [C.1, C.5]
4. For workers whose piece rate wages in months are less than their contracted wages, the factory uses the attendance allowances to compensate instead of paying an additional amount to ensure workers' contracted wages as required by law. For example, if one worker's contracted wage is VND 4,000,000/month (171 USD) and her attendant allowance is VND 200,000/month (8.57 USD) but her piece rate wage for a month was VND 3,600,000 (154.26 USD). Based on the law, the factory needs to pay this worker VND 400,000 (17.41 USD). However, the factory only paid an additional VND 200,000 and then used the attendant allowance VND 200,000 (8.57 USD) to cover the gap. Therefore, the worker is paid VND 4,000,000 (171 USD) instead of VND 4,200,000 (179.97 USD). [C.1, C.5]

Local Law or Code Requirement

Vietnam Labor Code, Articles 91, 97 and 106; Decree 45/ 2013/ ND-CP, Article 3; Decree 141/ 2017/ ND-CP, Article 3; Circular 47/ 2015/ TT-BLĐTBXH, Article 4. FLA Workplace Code (Compensation Benchmarks C.1, C.2, C.3, C.5 and C.7)

Recommendations for Immediate Action

1. Pay the minimum wage for workers during the training period.
2. Ensure all workers, including boiler operators and electrician, are paid appropriately for all overtime worked.
3. Pay piece-rate workers for all meeting and training times.
4. Ensure piece-rate workers are paid at least the contracted wages in cases where their piece rate wages are less than the contracted wages as being required by law.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. The factory will review the wage calculations for workers during their training period and revise the internal procedures and labor contracts accordingly.
2. The factory will review the working hours for the boiler operators and electricians and revise the protocol should they arrive to work earlier than the expected time.
3. The factory will review the wage calculations for piece rate workers during meetings and training period, and revise the procedures and labor contracts accordingly.
4. The factory will review the wage calculations for piece rate workers and revise the internal procedures and labor contracts accordingly.

Planned completion date

10/17/18

Company Action Plan Update

1. The factory reviewed the wage calculations for workers during their training period and revised the internal procedures and labor contracts accordingly. See attached documents.
2. The working hours for the boiler operators and electricians have been revised and protocol set in case they arrive earlier than the expected time.
3. The factory reviewed the wage calculations for piece rate workers during meetings and training period, and revised the procedures and labor contracts accordingly. See attached documents.
4. The factory reviewed the wage calculations for piece rate workers and revised the internal procedures and labor contracts accordingly. See attached documents.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The monthly overtime exceeds the legal limit (30 hours per month). For example, in June 2018, 20 out of 45 selected workers worked overtime from 31 to 39.5 hours/month; in May 2018, 34 out of 45 selected workers worked overtime from 31 to 62 hours/month and in December 2017, 2 out of 45 selected workers worked overtime from 31 to 40.5 hours/month. [HOW.1, HOW.8.1]

2. The weekly working hours exceed 60 hours per week as below:

In June 2018, 2 out of 45 workers worked up to 62 hours/week for one week; in May 2018, 9 out of 45 selected workers worked from 61 to 65 hours/ week from one to three weeks. [HOW.1, HOW.8.3]

Local Law or Code Requirement

Vietnam Labor Code, Articles 104 and 106. FLA Workplace Code (Hours of Work Benchmarks HOW.1 and HOW.8)

Recommendations for Immediate Action

1. Ensure workers' monthly overtime does not exceed 30 hours as per local law.

2. Ensure workers do not work more than 60 hours per week.

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory will take action to reduce the number of overtime hours to meet company's maximum 60 hours per week standard by working across departments (especially planning and HR) to ensure there is enough capacity to complete orders with minimal overtime.

Planned completion date

10/17/18

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

FLA Comments: The Vietnam constitution guarantees Freedom of Association. However, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – The Vietnam General Confederation of Labour (VGCL). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in Vietnam fall short of the ILO standards on the right to organize and bargain collectively. [FOA.2]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmark FOA.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory acknowledges this issue and will implement when possible.

Planned completion date

07/17/19

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. There are no records of disciplinary actions maintained for the past 12 months. [ER.2]
2. The disciplinary system does not include the workers' right to have a third party witness present during imposition of the disciplinary action. In practice, workers are able to have a third party witness present. [ER.27.4]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.2, ER.27)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory will maintain complete records of all disciplinary actions going forward. In the past they did not have any cases of violations therefore no records was available.

Planned completion date

01/17/19

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The firefighting and evacuation preparedness document is not updated with the fire drills that have been conducted. [HSE.5]
2. There is no inspection requirement established for sprinkler and smoke detector inspection. As a result, there are no relevant inspection tools or inspection records available as required by law. [HSE.1, HSE.6]
3. There are no smoke detectors equipped for the mezzanine of materials and finished goods warehouse as required by law. [HSE.1, HSE.6]
4. The semi products materials are not kept clear from the electrical wiring and electrical panel at the production lines that could cause a fire risk at the factory. [HSE.5, HSE.6]
5. The health safety risk assessment is conducted. However, the assessment is quite simple. There are no records for relevant worker involvement such as surveys and interviews with relevant staff during the assessment. The workers who handle prolonged standing work are not provided with measure to reduce the H&S risks. There is no review and evaluation for proposed actions for each identified risk as required by law. [HSE.1, HSE.17]

Local Law or Code Requirement

Decree No. 44/ 2016/ ND-CP, Articles 21 and 22; Circular 66/ 2014/ TT-BCA, Article 12; Vietnam Standard TCVN 5738-2001 and TCVN 3890:2008, Point 6, Decree No. 169/ 2003/ ND-CP, Article 23; Decree No. 39/ 2016/ ND-CP, Articles 4, 5 and 6. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.5 and HSE.17)

Recommendations for Immediate Action

1. Keep aisles clear from obstruction at all times.
2. Equip adequate smoke detectors for the mezzanine of materials and finished goods warehouse.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. The factory will update firefighting and evacuation preparedness document with the fire drills that have been conducted.
2. The factory will regularly inspect fire sprinkler and smoke detectors and keep a record of inspections.
3. The factory will install automatic smoke and heat detectors in the mezzanine of materials and finished goods warehouse.
4. The factory will ensure that semi products materials are kept clear from the electrical wiring and electrical panel at the production lines.
5. The factory will review and update the health and safety risk assessment to include: 1) worker involvement communication channels; 2) risks for workers that handle prolonged standing work; and 3) review and evaluation for proposed actions for each identified risk as required by Vietnam law.

Planned completion date

10/17/18

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The factory does not test the living waste water as committed in the approved Environmental Commitment and waste water disposal contract with the industrial zone. The drainage system and waste water system are mixed at the kitchen washing area. Furthermore, living waste and industrial waste are not classified as required by law. [HSE.1, HSE.4]
2. The hazardous waste list was registered in 2011 and is not updated as being required by law. The hazardous waste volume has increased much more than what it had been registered at. Moreover, the medical waste is not registered and not included in the waste disposal contract. [HSE.1]

Local Law or Code Requirement

The Vietnam Environment Protection Law, Articles 77 and 82; Decree 38/ 2015/ NĐ-CP, Articles 6 and 7. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1 and HSE.4)

Recommendations for Immediate Action

1. Regularly test the waste water and ensure storm water drainage system and waste water system are separated. Classify and segregate living waste and industrial waste.
2. Update the hazardous waste list to include medical waste at the factory and sign the contract to dispose medical waste released.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. The factory will regularly test the waste water every 6 months (June and December each year) and ensure storm water drainage system and waste water system are separated. The factory will classify and segregate living waste and industrial waste.
2. The factory will update the hazardous waste list to include medical waste at the factory and sign the contract to dispose medical waste released.

Planned completion date

10/17/18

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. The factory does not have any written policies and procedures on the following Employment Functions: Hours of Work for Special Categories of Employees, Performance Review and Personal Development, Workplace Conduct and Discipline, Retrenchment, Industrial Relations, and Freedom of Association. As a result, factory does not communicate these policies and procedures to general workforce. [ER.1, ER.23, ER.25, ER.27, ER.29, ER.30, ER.32]

2. The health and safety policy and procedures are not complete: 1) no logout-tagout procedures are established; 2) no procedure is established for internal vehicle and traffic safety at the factory. [HSE.1, ER.31]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.23, ER.25, ER.27, ER.29, ER.30, ER.31 and ER.32; Health, Safety & Environment Benchmark HSE.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. The factory will develop policies and procedures for Hours of Work for Special Categories of Employees, Performance Review and Personal Development, Workplace Conduct and Discipline, Retrenchment, Industrial Relations, and Freedom of Association. The factory will also communicate these policies and procedures to the general workforce.

2. The factory will establish tag-out/log out procedures and procedures for internal vehicle and traffic safety implemented at the factory, and communicate this out to the general workforce.

Planned completion date

01/17/19

FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The orientation and on-going trainings for workers are missing for the following Employment Functions: Hours of Work for Special Categories of Employees, Performance Review, Personal Development, Workplace Conduct and Discipline, Retrenchment, Industrial Relations, and Freedom of Association. [ER.1, ER.15]

2. Except for the Environmental Protection and Health & Safety Employment functions, the specific training for managers and supervisors is missing across all following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations, Workplace Conduct & Discipline, and Grievance System. [ER.17, ER.27]

3. The factory does not monitor to provide health and safety training to workers who return from extended leaves, such as maternity leave, sick leave and accident leave. [HSE.1]

4. The Health and Safety internal trainer of the factory does not join the refresher training as required by law. [HSE.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, ER.17 and ER.27; Health, Safety & Environment Benchmark HSE.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. The factory will update the orientation and on-going trainings for workers to include: Hours of Work for Special Categories of Employees, Performance Review, Personal Development, Workplace Conduct and Discipline, Retrenchment, Industrial Relations, and Freedom of Association.
2. The factory will update specific training for managers and supervisors to include: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations, Workplace Conduct & Discipline, and Grievance System.
3. The factory will monitor and provide health and safety training to workers who return from extended leaves, such as maternity leave, sick leave and accident leave.
4. The factory will require the internal trainer of the factory to join the Health & Safety refresher training as required by law.

Planned completion date

01/17/19

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

The worker integration component is missing across all Employment Functions. This indicates that the factory has not established procedures to request and/or receive workers' input/feedback regarding the creation, implementation, and updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes. [ER.1.3, ER.25.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3 and ER.25.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory will establish a worker integration component across all Employment Functions to request and/or receive workers' input or feedback regarding the creation, implementation, and updating of its policies and procedures.

Planned completion date

01/17/19

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

The factory has reviewed its policies and procedures regarding Health & Safety and Hours of Work. However, the factory does not regularly review and update of its policies and procedures for the following Employment Functions: Recruitment, Hiring & Personal Development, Compensation, Termination & Retrenchment, Industrial Relations, Workplace Conduct & Discipline, Grievance System, and Environmental Protection. [ER.1, ER.29.1.1, ER.30.2, ER.31.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.29.1.1, ER.30.2 and ER.31.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory will update the review process to ensure that policies and procedures include: Recruitment, Hiring & Personal Development, Compensation, Termination & Retrenchment, Industrial Relations, Workplace Conduct & Discipline, Grievance System, and Environmental Protection.

Planned completion date

01/17/19

FINDING NO.12

NOTABLE FEATURE

FINDING TYPE: Compensation

Finding Explanation

The factory pays piece rate workers, overtime at 200%, which is higher than the local law requires (150%).

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory will continue to implement this wage calculation where piece rate workers are paid overtime at 200%, which is higher than the local law requires (150%).

FINDING NO.13

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Responsibility & Accountability (Macro)

Finding Explanation

Although the responsibilities for the following Employment Functions are said to be assigned, they are not written: Personal Development, Termination and Retrenchment, Industrial Relations, and Grievance System. [ER.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory will put the responsibilities for the following employment functions in writing: Personal Development, Termination and Retrenchment, Industrial Relations, and Grievance System.

Planned completion date

01/17/19