



COMPANIES: Tommy Bahama Group  
COUNTRY: China  
ASSESSMENT DATE: 07/23/18  
ASSESSOR: Openview  
PRODUCTS: Apparel  
NUMBER OF WORKERS: 130

## 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

1. The factory does not sign unlimited term labor contracts with workers who have signed two prior labor contracts. [ER.10.1]
2. There are age and gender limitations on some job descriptions. For example, the current job description for production workers requires the employee be 18 to 35 years old. [ER.3.2 and ND.2.1]
3. The factory does not have specific career paths or skill development plans for employees. [ER.1 and ER.29]
4. The factory does not conduct performance reviews for employees. [ER.1 and ER.29.1]
5. The factory has only hired one disabled worker, which is less than the legal requirement that 1.5% of the total workforce be composed of disabled workers. Although the factory contributes to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law, this practice carries the risk of discrimination based on FLA Workplace Code and Benchmarks. [ND.1]

##### Local Law or Code Requirement

China Labor Contract Law, Article 14; Regulation on the Employment of the Disabled (2007), Articles 8 and 9. FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.3, ER.10 and ER.29; Nondiscrimination Benchmark ND.1 and ND.2)

##### Recommendations for Immediate Action

1. Sign open-ended labor contracts with workers who have signed the labor contract twice.
2. Delete the age requirement in the job descriptions.

#### COMPANY ACTION PLANS

##### Action Plan no 1.

##### Description

Re-sign the indefinite labor contract with the employee who signed the labor contract 2. Change the recruitment requirements, and post it on the bulletin board. 3. Develop the employee's skill development plan and send it to the employee for viewing. 4. Organize the performance evaluation team to perform the employee performance. Evaluation 5. Increase the employment of disabled employees to meet relevant requirements. Please refer to attach AF180806-0000014-001.rar

##### Planned completion date

## FINDING NO.2

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Termination & Retrenchment

##### Finding Explanation

The termination procedure does not cover employees who have reached the retirement age. [ER.1 and ER.32]

##### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15 and ER.32)

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

Re-dealing the dismissal procedures, the content must be included in the retirement age and posted on the bulletin board. Pls refer to attach AF180806-0000014-002.rar

##### Planned completion date

01/24/19

## FINDING NO.3

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

##### Finding Explanation

1. The factory does not provide employees with sufficient social insurance. Of the 99 employees working for the factory prior to the assessment day, including two newly-recruited employees and five employees over the retirement age, 92 employees are eligible for social insurance. According to the social insurance proof of payment for July 2018, only 33 current employees (35.9%) are covered by work-related injury, maternity, pension or unemployment insurance, and the factory provided no medical insurance for employees. The factory bought group commercial accident injury insurance for 125 employees, valid from October 29, 2017 to October 28, 2018, with a maximum compensation of CNY 100,000 (USD 14,553) per person. The factory applied for medical insurance for 62 employees on July 24, 2018; those 62 employees have been covered since August 2018. [ER.22 and C.10]

2. The contribution base of the five types of social insurance is not aligned with legal requirements. The current contribution is based on the local minimum requirement of CNY 2,839 (USD 413) for work-related injury, pension, and unemployment insurance, and CNY 2,139 (USD 311) to CNY 2,906 (USD 423) for maternity insurance, instead of an employee's average monthly wage in the previous year (at least 50% of employees' average monthly wage range of the previous year is between CNY 3,000 (USD 437) to CNY 5,000 (USD 728) per month). [ER.22, C.1 and C.10]

3. The factory does not pay into the Housing Provident Fund for workers as required by local law. [ER.22, C.1, and C.10]

4. About 80% of interviewed workers were not aware of the paid leave policies, including annual leave, sick leave, or maternity leave. No workers had applied for the paid leaves, though the factory arranged for workers to take annual leave during Spring Festival. [ER.16, ER.22, HOW.10, HOW.13 and HOW.17]

##### Local Law or Code Requirement

China Labor Law, Articles 72 and 73; The Provisions on Payment of Wages in Guangdong Province, Article 19; Social Insurance Law of the PRC, Articles 12 and 58; Regulations on Management of Housing Provident Fund, Articles 2, 3 and 15. FLA Workplace Code (Employment Relationship Benchmarks ER.16 and ER.22; Hours of Work Benchmarks HOW.10, HOW.13 and HOW.17; Compensation Benchmarks C.1 and C.10)

##### Recommendations for Immediate Action

1. Provide all workers with all required social insurances.
2. Calculate social insurance contribution based on employee's average monthly wage in the previous year.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Due to employees' unwillingness to purchase social security, the factory will not be able to purchase social security personnel. The factory will meet with employees to promote the importance of social insurance to employees and persuade employees to gradually increase the purchase of social insurance. 2. The social security contribution base of our factory is According to the local government to assign our base to pay, so it is in line with the requirements of the relevant local departments; 3, the local authorities did not require local enterprises to purchase housing provident fund and employees are not willing to buy, so this problem; the factory will meet with employees to persuade Purchase this benefit. 4. Arrange a meeting to educate workers on the policy of promoting paid holidays and post them on the bulletin board for employees to view. pls refer to attach AF180806-0000014-003.rar

#### Planned completion date

10/24/18

## FINDING NO.4

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Hours of Work

#### Finding Explanation

1. According to worker interviews and timesheets from July 2017 to July 23, 2018, 90% of workers exceeded 36 overtime hours every month in the reviewed period except February 2018, with a maximum of 74 overtime hours in December 2017. [HOW.1]
2. The production plan includes overtime work. The factory usually makes production plans based on eight hours per weekday plus 8 hours overtime on Saturday, resulting in eight hours overtime per week. Working hour records showed workers regularly work two to three hours overtime on two to four weekdays and 8 hours overtime on Saturday per week, which is above the regular 40 work hours a week. The factory has not established a reasonable plan to reduce overtime. [ER.24 and HOW.8]

#### Local Law or Code Requirement

China Labor Law, Article 41. FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmarks HOW.1 and HOW.8)

#### Recommendations for Immediate Action

1. Ensure workers' overtime hours not exceed 36 hours a month.
2. Revise the production plan to remove overtime on a regular basis.
3. Establish a reasonable plan to gradually reduce overtime.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

The root cause: Because the employees are less difficult to recruit, the production is not arranged reasonably, so overtime is overtime. Improvement measures: increase recruitment of employees, rationally arrange production, and gradually reduce overtime hours to meet regulatory requirements. pls refer to attach AF180806-0000014-004.rar

#### Planned completion date

10/24/18

## FINDING NO.5

### SUSTAINABLE IMPROVEMENT REQUIRED

## FINDING TYPE: Industrial Relations

### Finding Explanation

FLA Comments: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union, the All-China Federation of Trade Unions (ACFTU). 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 China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of labor relations mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies, and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements. [FOA.2]

### Local Law or Code Requirement

FLA Workplace Code (Association Benchmark FOA.2)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

The factory does not have a trade union organization, but the factory has employee representatives. The employee representatives are elected by all employees and are fair, equal and free. Pls refer to attach AF180806-0000014-005.rar

#### Planned completion date

07/24/19

## FINDING NO.6

## SUSTAINABLE IMPROVEMENT REQUIRED

## FINDING TYPE: Workplace Conduct & Discipline

### Finding Explanation

1. The factory does not provide workers with written documentation during orientation, including a copy of workplace rules. [ER.15]
2. The disciplinary system does not include the workers' right to have a third party witness present during imposition of the disciplinary action. [ER.27]
3. The factory did not provide records of disciplinary action for review during the assessment. Management stated that no workers have seriously broken factory rules. They recently gave verbal warnings to workers who broke minor factory rules. However, the factory has not maintained records of disciplinary action for the past two years. [ER.2 and ER.27]

### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.2, ER.15 and ER.27)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1. Change the training requirements. During the training period, the factory shall provide written documents to the workers for reference. 2. Re-specify that the third-party witnesses must be present when handling disciplinary action; 3. When dealing with disciplinary action A person is responsible and recorded. pls refer to attach AF180806-0000014-006.rar

#### Planned completion date

01/24/19

## FINDING NO.7

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Environmental Protection

##### Finding Explanation

1. The factory does not have written procedures on Environmental Protection to manage the environmental impact on its surroundings. [ER.31]
2. The procedures do not enable workers to raise environmental concerns , and do not guarantee protection for workers who allege environmental violations. [ER.31]

##### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.31)

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

1. Develop environmental protection procedures to control the existing environment; 2. Develop reasonable environmental procedures to protect environmental issues raised by workers. Pls refer to attach AF180806-0000014-007.rar

##### Planned completion date

01/24/19

## FINDING NO.8

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. There is no centralized fire alarm system in the factory. [HSE.5]
2. The fire brigade does not have the appropriate personal protective equipment (PPE) to fight fires (such as a breathing apparatus). [HSE.6]
3. Emergency assembly areas in the factory and dormitory buildings are not clearly marked. [HSE.5]
4. The factory does not regularly sanitize its canteen, kitchen, or dormitory, beyond the normal janitorial cleaning. [HSE.1 & HSE.19]
5. The factory has no posted or displayed safety instructions near cutting or sewing machines. [HSE.1 & HSE.14]

##### Local Law or Code Requirement

FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.5, HSE.6, HSE.14 and HSE.19)

##### Recommendations for Immediate Action

1. Install a centralized fire alarm system in the factory.
2. Mark the emergency assembly areas clearly.
3. Post safety instructions near cutting machines and sewing machines.

### COMPANY ACTION PLANS

#### Action Plan no 1.

#### Description

1. The factory did not consider the central fire alarm system when it was built, and was looking for the relevant company to negotiate; 2. Apply for the purchase of fire protection and respirator and place it in the workshop; 3. Set emergency collection points outside the factory and dormitory and clearly mark it; The canteen, kitchen and dormitory are regularly disinfected, once a month and recorded; 5. Develop safety guidelines for sewing machines and post them in the workshop for workers to view. pls refer to attach AF180806-0000014-008.rar

#### Planned completion date

10/24/18

## FINDING NO.9

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Health & Safety

#### Finding Explanation

1. There are no written policies on Health & Safety. [ER.31 and HSE.1]
2. The factory does not have procedures that enable workers to raise health and safety concerns and protect workers who raise concerns from retaliation. [ER.31, HSE.1]
3. The factory has no established or implemented written lockout-tagout (LOTO) policy or procedure, and there is no list of equipment or machines that require the LOTO. [ER.31, HSE.14]
4. The factory has established a procedure on fire preparedness, but has no fire risk assessment. [ER.31, HSE.1, HSE.5]
5. The factory has no guidance documents for external contractors or service providers concerning Health & Safety. [ER.31, HSE.1]
6. The factory has no ergonomic management for workers, such as reducing repetitive-motion stress or injuries, or providing adjustable workstations, chairs with backrests for seated workers, or anti-fatigue mats for standing workers. [HSE.17]
7. The factory does not have a Report on the Inspection and Acceptance of Completed Construction Project for one flat iron building used as a warehouse, constructed in 2008 with a construction area of ~700 square meters. [HSE.1 and HSE.4]
8. The factory needs a Pre-Assessment of Occupational Disease Hazards and an assessment of the Current Condition of Occupational Disease Hazards Control. [HSE.1 & HSE.4]

#### Local Law or Code Requirement

Construction Law of the People's Republic of China, Article 61; Law of the People's Republic of China on the Prevention and Control of Occupational Diseases, Articles 17 and 18; FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety & Environment Benchmarks HSE.1, HSE.4, HSE.5, HSE.14 and HSE.17)

### COMPANY ACTION PLANS

#### Action Plan no 1.

#### Description

1. Formulate health and safety policies; 2. Train workers to understand health and safety policies and protect workers from retaliation; 3. Formulate machine maintenance and listing procedures, and train relevant personnel; 4. Recruit relevant personnel to the factory Fire risk assessment; 5. Develop guidance documents on the health and safety of external contractors or service providers, and issue them to external contractors or service providers as required; 6. Gradually increase the purchase of the chair to be used by the workshop workers, standing Workers apply for anti-fatigue mats and go to ergonomic gymnastics for 10 minutes every two hours. 7. Apply for relevant departments to arrange engineering quality test reports. 8. Apply to relevant departments to arrange for occupational hazard assessment of the workshop. pls refer to attach AF180806-0000014-009.rar

#### Planned completion date

01/24/19

## FINDING NO.10



## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Training (Macro)

#### Finding Explanation

1. Prior to June 2018, the factory did not provide orientation training to new employees at the time of hiring. The factory has not conducted any orientation training for workers who were hired prior to June 2018. [ER.15]
2. There is no specific training for managers or supervisors on Recruitment, Hiring & Personnel Development; Compensation, Hours of Work, Industrial Relations, a Grievance System, Workplace Conduct & Discipline, Termination & Retrenchment, Environmental Protection or Health & Safety. [ER.1 and ER.17]
3. There is no ongoing training for employees on Recruitment, Hiring & Personnel Development, Compensation, Industrial Relations, a Grievance System, Workplace Conduct & Discipline, Termination & Retrenchment and Environmental Protection. [ER.1 and ER.15]
4. The factory conducts no specific workplace safety training for designated workers, including electricians, maintenance staff, or manual forklift workers, or for workers with special responsibilities, and no workers are trained on proper lifting techniques. [HSE.14]

#### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15 and ER.17; Health, Safety & Environment Benchmark HSE.14)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1. Recruit new employees to train employees in the factory regulation system; 2. Recruit management personnel or master management for salary, working hours, labor relations, appeal system, workplace behavior and discipline, termination and layoffs, environmental protection or health and safety 3. Full-time training; 3. Recruit all employees for training in recruitment, recruitment and personnel development, compensation, labor relations, complaints system, workplace behavior discipline, dismissal and layoffs, and environmental protection; 4. Recruit electricians and elevator operators Conduct safety training. pls refer to attach AF180806-0000014-010.rar

#### Planned completion date

01/24/19

## FINDING NO.11

## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Communication & Worker Involvement (Macro)

#### Finding Explanation

1. The factory has not integrated worker involvement into Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, a Grievance System, Workplace Conduct & Discipline, Termination & Retrenchment, Environmental Protection, or Health & Safety. This indicates the factory has not established procedures to request or receive workers' input or feedback regarding the creation, implementation, or updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes. [ER.1 and ER.25]
2. The updated workplace rules, laws regarding workers' rights with respect to freedom of association, compensation, working hours, and any other legally required information, environment, health & safety polices are not posted in the workplace areas. [ER.16.1]

#### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.16 and ER.25)

## COMPANY ACTION PLANS

### Action Plan no 1.



Description

1. Update the policy and procedure documents, and invite workers' representatives to participate in the preparation; 2. Post relevant policies and procedures documents on the bulletin board; pls refer to attach AF180806-0000014-011.rar

Planned completion date

01/24/19

## FINDING NO.12

### SUSTAINABLE IMPROVEMENT REQUIRED

**FINDING TYPE:** Review Process (Macro)

Finding Explanation

The factory has not conducted management or internal reviews to ensure policies and procedures are updated according to local laws and the FLA Workplace Code & Benchmarks for Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations, Workplace Conduct & Discipline, Grievance System, Environmental Protection, or Health & Safety. [ER.1, ER.30 and ER.31]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.30 and ER.31)

### COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Update all policies and procedures files and post them on the bulletin board.  
2. Will organize the management team to perform the internal audit, detecting the potential non-compliance.  
Pls refer to the attach AF180806-0000014-012.rar

Planned completion date

01/24/19

## FINDING NO.13

### NOTABLE FEATURE

**FINDING TYPE:** Compensation

Finding Explanation

The factory provides free dormitory and three free meals per day for employees.