



COMPANIES: Cutter & Buck

COUNTRY: China

ASSESSMENT DATE: 08/20/18

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 600

FLA Comments

Cutter & Buck ceased sourcing from this shortly after the SCI assessment took place. This decision was based on the business needs of Cutter & Buck. Prior to exiting the factory, Cutter & Buck, was a small percentage of the factory's overall production; therefore, there was a low risk of retrenchment. Since Cutter & Buck ceased sourcing from the factory soon after the SCI assessment, no remediation action was possible.

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 open-ended labor contracts, in which the employer and the employee stipulate that there is no specific date of termination of the contract, with 50% of workers who have signed labor contracts twice. [ER.10.1]
2. The factory has not hired any disabled workers, which is a violation of legal requirements that state at least 1.5% of the total workforce should be composed of disabled workers. Additionally, the factory does not contribute to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law. [ER.14, ND.1, ND.9]
3. The factory does not have written policies and procedures outlining the process for performance reviews; therefore, the factory does not conduct performance reviews for employees. In addition, the factory does not have a system to review the performance of new employees during their probation period. [ER.1, ER.29]
4. The factory does not have policies or procedures on Personnel Development. [ER.1.1, ER.28, ER.30]
5. None of the production positions have written job descriptions. [ER.1.1]

Local Law or Code Requirement

The 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.10.1, ER.14, ER.28, ER.29, and ER.30; Non-Discrimination Benchmarks ND.1 and ND.9)

Recommendations for Immediate Action

1. Sign open-ended labor contract with workers who have signed labor contracts twice.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. Assessors were not able to determine whether the factory is in compliance with laws regarding the minimum wage, overtime premiums, and paid leave because the payroll documents provided were based on the incomplete/ inaccurate time records and thus do

not reflect workers' actual working hours. [ER.18, ER.22.2, C.5, C.15, C.16]

2. The factory does not provide sufficient social insurance coverage to employees. In June 2018, 96% of employees were covered by pension, work-related injury, unemployment, medical, and maternity insurance. The rest of the employees were only provided with commercial accidental injury insurance that is valid from March 3, 2018 to March 2, 2019 and March 10, 2018 to March 10, 2019 respectively and has a maximum benefit amount of CNY 80,000 (USD 11,647.7) per employee. [ER.22, C.1, C.10]

3. The factory does not pay into the legally required Housing Provident Fund for any workers. [ER.22, C.1, C.10]

Local Law or Code Requirement

China Labor Law, Articles 44, 48, 51, 72 and 73; 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.18, ER.22.1, and ER.22.2; Compensation Benchmarks C.1, C.5, C.10, C.15, and C.16)

Recommendations for Immediate Action

1. Maintain complete and accurate payroll records which are based on workers' actual working hours. Ensure that workers are paid the legal minimum wage, overtime work is paid at the legal premium rate, and workers are provided with all legally required paid leave.

2. Provide all workers with all legally required forms of social insurance.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The time records factory provides are incomplete/inaccurate. There were some inconsistencies between the time records the factory provided to assessors and the information assessors obtained from time records in the HR computer, production records, and worker interviews. For example, the time records the factory provided indicated that no workers work on Sundays. However, the time records kept on the HR computer and the production records show that about 70% of workers worked on the following Sundays in 2018: February 11, April 1, April 8, April 29, June 3, June 10, June 24, July 1, July 8, July 22, and July 29. In addition, the time records the factory provided indicate that no workers worked past 7:00 pm during the past 12 months, however, the time records kept on the HR computer indicate that in the past year about 70% of workers worked till 8:00-11:30 pm on about 20% of days. [ER.1.1, ER.23]

2. On weeks with Sunday work hours, workers did not receive an alternative rest day. Therefore workers did not receive one rest day in seven on at least 11 occasions in the past year. [HOW.2]

3. According to worker interviews and time records, 90% of workers' monthly overtime hours exceeded 36 hours per month every month from August 2017 to August 2018, except for the month of February 2018. The maximum number of overtime hours was 79 hours in March 2018. [HOW.1.1, HOW.8.1]

4. Based on the interview and check of the time record in HR computer, excessive weekly working hour issue occurred. However, the time record in HR computer was found by assessors and is incomplete therefore it is not possible to state the exact number of instances of workers exceeding 60 hours per week. [HOW.1.3]

5. The factory production plan is based on a 60-hour work week, so that workers have to work 20 overtime hours per week in order to meet production targets. [ER.24, HOW.8]

6. The factory does not conduct regular analyses of working hours with the goal of progressively reducing excessive hours of work. [HOW.1.2]

Local Law or Code Requirement

China Labor Law, Article 41; FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.23, and ER.24; Hours of Work Benchmarks HOW.1.1, HOW.1.2, HOW.1.3, HOW.2, and HOW.8)

Recommendations for Immediate Action

1. Have a reliable time recording system and maintain complete and accurate time records.

2. Ensure workers' overtime hours do not exceed 36 hours per month.

3. Do not include overtime in the production plan.

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Termination & Retrenchment

Finding Explanation

1. The factory does not have policies or procedures on Retrenchment. Therefore, the factory does not communicate the policies and procedures to the general workforce. [ER.1.1, ER.19.1, ER.32.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.19.1, and ER.32.1)

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. There are no policies or procedures regarding Industrial Relations, and the factory does not communicate to the general workforce either. [ER.1.1, ER.25]

2. 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 the 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 (Employment Relationship Benchmarks ER.1.1 and ER.25; Freedom of Association Benchmark FOA.2)

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. The factory's disciplinary system is incomplete. It does include a third party witness during imposition or an appeal process. [ER.27.4]

2. The records of disciplinary actions are maintained in a centralized file, not in workers' personnel files. [ER.27.3.4]

3. The factory's disciplinary procedures include monetary fines/ deductions as a form of disciplinary action. The dormitory regulations indicate that workers are fined CNY 5 (USD 0.73) every time she/ he violates the rules. However records indicate that this fine has not been applied in the past year. [H/A.2]

Local Law or Code Requirement

China Labor Law, Article 50; FLA Workplace Code (Employment Relationship Benchmarks ER.27.4.3 and ER.27.4; Harassment or Abuse Benchmark H/A.2)

Recommendations for Immediate Action

1. Update the Workplace Conduct & Discipline procedures to eliminate monetary fines. Do not fine workers to maintain discipline.

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Two fire hydrants and four fire extinguishers are blocked by materials temporary stored in the sewing section. One fire alarm button and one evacuation map are blocked by materials in material warehouse. [HSE.1, HSE.6.1]
2. The fire brigade does not have the appropriate personal protective equipment (PPE) to fight fires (such as a breathing apparatus). [HSE.6.1, HSE.7]
3. One exit sign in the pressing section is malfunctioning and does not light up. [HSE.1, HSE.5.1, HSE.6.1]
4. The fire alarm system is not centralized and does not have a backup battery. [HSE.5.1, HSE.6.1]
5. There are no needle guards on 30% of the sewing machines. [HSE.1, HSE.14.1]
6. Approximately 50% of the sewing workers remove their eye shields while working. [HSE.1, HSE.8]
7. The factory does not track and conduct statistical analysis for workers' illnesses. [HSE.3.2]

Local Law or Code Requirement

The China Fire Prevention Law, Article 28; The Code of Design on Building Fire Protection and Prevention, Article 10.3.5; Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.3.2, HSE.5.1, HSE.6.1, HSE.7, HSE.8 and HSE.14.1)

Recommendations for Immediate Action

1. Clear obstructions from fire extinguishers, fire alarm buttons, and evacuation maps.
2. Provide the fire brigade with the appropriate PPE and training on its use and maintenance.
3. Regularly inspect and repair exit signs to ensure that they will light up in case of an emergency, Replace the exit sign if necessary.
4. Install a centralized, battery powered fire alarm system in the factory.
5. Install needle guards on all sewing machines and train workers on their proper use.
6. Monitor sewing workers to ensure that they use their eye shields properly. Retrain them if necessary.
7. Track and conduct statistical analysis for workers' illnesses.

FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory was founded in 2010 and has not commissioned a government-accredited third party to conduct an Occupational Disease Hazard Pre-Assessment, an Assessment of the Effectiveness of Occupational Disease Hazard Controls, or an updated Assessment of the Current Condition of Occupational Disease Hazards. [HSE.1]
2. The factory has not established or implemented a lockout-tagout system. [HSE.14]
3. The factory does not provide workers with or display a list of equipment that requires lockout-tagout. [HSE.14]
4. The factory does not periodically test the lightning protection system. [HSE.1]

5. The traffic lanes and sidewalks on the factory premises are not clearly marked. There are no signs or other safe driving aids, such as indicators, convex mirrors in dead ends, vehicle speed limit signs, or reflectors, to ensure that workers use safe driving practices. [HSE.6.1]
6. The factory does not regularly restock the first aid kit. For example, the hydrogen peroxide disinfectant in all of the kits in the factory expired on February 7, 2017. [HSE.6.1, HSE.18.3.1]
7. The factory does not take steps to reduce repetitive-motion stress and injuries or provide adjustable workstations for sitting workers. There are no removable armrests or proper backrests on chairs for seated workers. There are no anti-fatigue mats provided for workers who work in a standing position. [HSE.17.1]
8. The factory does not reserve food samples for at least 48 hours. [HSE.1, HSE.19]

Local Law or Code Requirement

The China Law of Prevention and Control of Occupational Diseases, Articles 17 and 18; Provisions on the Supervision and Administration of Occupational Health at Work Sites, Article 20; Technical Specifications for Inspection of Lightning Protection System in Building, Article 6; The Design of Industrial Enterprises, Article 8.3.3; The Food Safety Operation Specifications for Catering Service, Article 7.9.2; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.6.1, HSE.14, HSE.17.1, HSE.18.3.1, and HSE.19)

Recommendations for Immediate Action

1. Periodically test the lightning protection system.
2. Regularly check the first aid kit and ensure that none of the items are expired.
3. Reserve food samples for at least 48 hours per the legal requirement.

FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The factory's Environmental Protection policies do not include a statement of the factory management's general support of energy and water efficiency or a commitment to minimize impacts with respect to air emissions, waste, hazardous materials and other significant environmental risks. [ER.31.3]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.31.3)

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

1. The factory does not regularly review and/or update its policies and procedures for any of the Employment Functions. [ER.1.3, ER.29.1.1, ER.30.2, ER.31.1, ER.31.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3, ER.29.1.1, ER.30.2, ER.31.1, and ER.31.2)

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory does not provide orientation training to workers on the following Employment Functions: Recruitment, Hiring & Personnel Development; Retrenchment; Industrial Relations; and Grievance System. [ER.1.2, ER.15.1]
2. The specific training for managers and supervisors is missing across below Employment Functions including Recruitment, Hiring & Personnel Development; Industrial Relations; Grievance System; Workplace Conduct & Discipline; Termination & Retrenchment; Environmental Protection; and Health & Safety. [ER.1.2, ER.17.1, ER.17.2, ER.27.2]
3. The factory does not provide ongoing training to employees on the following Employment Functions: Recruitment, Hiring & Personnel Development; Compensation; Hours of Work; Industrial Relations; Grievance System; Workplace Conduct & Discipline; and Termination & Retrenchment. [ER.1.2, ER.15.2, ER.28.1, ER.29.1.1, ER.30.2]
4. The factory does not provide specific training on maintenance safety to the workers with maintenance responsibilities. [HSE.14.2]
5. Workers do not receive a copy of the workplace rules during orientation or written documentation that substantiates all of the issues covered in orientation. [ER.15.3]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.15.1, ER.15.3, ER.17.1, ER.17.2, ER.27.2, ER.28.1, ER.29.1.1, and ER.30.2; Health, Safety & Environment Benchmark HSE.14.2)

FINDING NO.12

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. 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]
2. The workplace rules, Health & Safety information, laws regarding workers' rights with respect to Freedom of Association, Compensation, Hours of Work and any other legally required information, and the FLA Code are not posted throughout the workplace's common areas. [ER.16.1]
3. The factory does not properly or effectively communicate policies and procedures and their updates to the general workforce for the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Industrial Relations, Termination & Retrenchment, Workplace Conduct & Discipline, and Grievance System. [ER.1.2, ER.16.1, ER.30.2, C.17, ER.25.1, ER.27.3]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.1.3, ER.16.1, ER.25.1, ER.25.2, ER.27.3, and ER.30.2; Compensation Benchmark C.17)

FINDING NO.13

NOTABLE FEATURE

FINDING TYPE: Compensation

Finding Explanation

1. The factory provides lunch and dinner for workers free of charge.
2. The factory provides workers free housing in air conditioned dormitories.

FINDING NO.14

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Responsibility & Accountability (Macro)

Finding Explanation

1. The factory has not formally defined in writing the person(s) responsible for any of the Employment Functions or the the person(s) with ultimate accountability within the factory. [ER.1.2, ER.31.2.1, ER.31.2.3]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.31.2.1, and ER.31.2.3)