



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Tommy Bahama Group

COUNTRY: China

ASSESSMENT DATE: 08/27/18

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 1350

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: Compensation

Finding Explanation

1. The factory does not provide all required social insurance types to all employees. For example, in July 2018, 1152 out of 1364 eligible employees (84%) were provided with work-related injury, maternity, pension, and medical insurance, 1149 out of 1364 eligible employees (84%) were provided with unemployment insurance. The factory has provided commercial accidental injury insurance for all the rest employees, valid from July 7, 2018 to July 6, 2019 and has a maximum benefit amount of CNY 210,000 (USD 30,837) per employee. The findings were similar in the other 11 months reviewed. [ER.22.1, C.10.1]
2. The contribution base of the five types of social insurances is not in line with legal requirements. The contribution is based on the local minimum requirement of CNY 3,055 (USD 449) for work-related injury, medical, maternity, unemployment and pension insurance, instead of based on an employee's average monthly wage of the last year (about 80% of employees' wage range is between CNY 3,800 (USD 558) to CNY 4,800 (USD 705) per month. [ER.22.1, C.10.1]
3. The factory only provides Housing Provident Fund for 30 out of all 1364 eligible employees (2%). [ER.22.1, C.1, C.10.1]
4. The contribution base for Housing Provident Fund is CNY 3,570 (USD 524) per month, instead of an employee's average monthly wage of the last year (about 80% of employees' wage range is between CNY 3,800 (USD 558) to CNY 4,800 (USD 705) per month. [ER.22.1, C.1, C.10.1]
5. There are two employees who are in lactation period; however, the factory did not provide paid leave for prenatal health examination before they took the maternity leave. [C.1]
6. The factory does not pay unused annual leave for resigned employees. [HOW.14]

Local Law or Code Requirement

China Labor Law, Articles 72 and 73; Social Insurance Law of the PRC, Articles 12 and 58; Regulations on Management of Housing Provident Fund, Articles 2, 3, 15 and 16; The Special Provisions on Labor Protection for Female Employees, Article 6; Employee Paid Annual Leave Regulation, Article 5. FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmarks C.1 and C.10; Hours of Work Benchmark HOW.14)

Recommendations for Immediate Action

1. Provide all employees with all legally required five types of social insurances including work-related injury insurance, maternity insurance, pension insurance, medical insurance, and unemployment insurance.
2. Calculate social insurance contribution based on an employee's average monthly wage of the last year.
3. Provide paid leave for prenatal health examination for pregnant employees.
4. Pay unused annual leave for resigned employees.

COMPANY ACTION PLANS

Action Plan no 1.

Description

- 1, the company's social insurance all conform to the requirements of the local government, this is the national policy of labor-intensive enterprises support, see attachment 15 《approval of social insurance. We can not meet the 100% cover and participant before the year 2021.
- 2, Housing Provident Fund has been provided to 93 staffs, and we will further expand in 2019, also contribution base according to the regulations of the local government, which is the government's support policy for labor-intensive enterprises. See attach 16 《housing provident fund list. And we can not increase the calculation basis before the year 2021.
3. we will provide paid leave for prenatal health examination. See attachment 17.
- 4, we paid annual vacation for leave staff wages. See attach 18 《 annual leave wage》 .

Planned completion date

11/28/18

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory had obtained a written approval for adopting a Comprehensive Working Hours System with a valid period from March 1, 2017 to February 28, 2018. However, the total working hours for about 80% of employees during this period exceeded the written approval's limit of 2,432 hours yearly per person under the Cumulative Hours Working System, ranging from 2,433 to 2,640 hours. [HOW.1.1]
2. The factory production plan is calculated based on working 54 hours weekly. The factory management sets production targets, piece rates, or any other incentive or production system at a level such that workers need to work 14 overtime hours per week. [HOW.8.1]
3. Based on document review, interviews with workers and management, the factory does not conduct an analysis of regular working hours with the aim to progressively reduce excessive hours of work. [HOW.1.2]
4. The factory does not have an effective system to control overtime work for workers who have been pregnant for more than seven months. As a result, pregnant workers for more than seven months work overtime. For instance, one worker who has been pregnant for seven months in March 2018 worked overtime on March 10, 2018 (Saturday). There were three pregnant production workers affected from this implementation in the most recent 12 months. [ER.14]

Local Law or Code Requirement

Instruction on the Implementation of the China Labor Law, Article 65; China Labor Law, Article 61. FLA Workplace Code (Employee Relationship Benchmark ER.14; Hours of Work Benchmarks HOW.1 and HOW.8)

Recommendations for Immediate Action

1. Ensure workers' total working hours do not exceed the written approval's limit of 2,432 hours yearly per person under the Cumulative Hours Working System.
2. Conduct regular analysis of hours of work to reduce excessive hours.
3. Establish overtime control system for pregnant workers and do not arrange workers who have been pregnant for more than seven months to work overtime.

COMPANY ACTION PLANS

Action Plan no 1.

Description

- 1, factory renovation our automated assembly line, try to gradually reduce the overtime.
2. improve production plan to control overtime work.
3. analysis work time and overtime to reduce work overtime.
4. pregnant woman will not work overtime on Saturday. See attachment 17.

Planned completion date

11/28/18

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. 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 (Freedom of Association Benchmark FOA.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The labor union can't be independent, but 53% of union members are ordinary worker. see attach 27 for the bargaining agreement. And our union independent can not be achieved before year 2021.

Planned completion date

08/28/19

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. The disciplinary system does not include the workers' right to have a third-party witness present during imposition of the disciplinary action. [ER.27.4]
2. The workers do not sign the written records of disciplinary action taken against them. [ER.27.3.3]
3. The records of disciplinary actions are maintained in a centralized file but not in workers' personnel files. [ER.27.3.4]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.27)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Correction of the discipline of system, see attachment 13 《staff rewards and punishment system》。 2.records of disciplinary is included in employee personnel file, see appendix 14 《staff disposition records》。

Planned completion date

02/28/19

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Combustible materials, such as cartons and sub-materials, are stored in one stairwell on the first floor of the two floor production building. (Note: This was remediated immediately on the first day of the assessment.) [HSE.1, HSE.5.1]
2. The fire alarm button installed in dormitory area needs to be continuously pressed to keep the bell ringing. [HSE.5.3]
3. The fire alarm system in the factory does not have a backup battery. [HSE.5.1]
4. Rolling shutters are installed at two evacuation exits on the first floor of the five-storey production building, which is in violation of the building code regulations. [HSE.5.1]
5. The factory conducted fire drills twice per year, however, not all employees participated in the fire drills. For example, only 182 out of 215 employees from Factory 1 participated in the fire drill conducted on June 9, 2018. [HSE.5.3]
6. No emergency evacuation plan is posted in the inventory warehouse on the fifth floor of the five-storey production building. [HSE.5.1]
7. 50% of the factory's emergency evacuation plans are incomplete as the location of emergency exit is not marked on the plan. [HSE.5.1]
8. The factory does not track and conduct statistical analysis for workers' illnesses. [HSE.3.2]

Local Law or Code Requirement

Code of Design on Building Fire Protection and Prevention, Articles 6.4.1 and 6.4.11; Fire Prevention Law of the People's Republic of China, Article 16; Code for Design of Automatic Fire Alarm System, Article 6.5.1; Fire Prevention Regulation for Government offices, Organizations and Enterprises, Article 40. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.3 and HSE.5)

Recommendations for Immediate Action

1. Remove combustible materials from the stairwell.
2. Equip proper fire alarm button in the dormitory area.
3. Install a backup battery for the fire alarm system in the factory.
4. Change the rolling shutters to flush doors for the two evacuation exits on the first floor of the five-storey production building and keep the doors open to the direction of evacuation.
5. Arrange all the employees to participate in fire drills.
6. Mark emergency exits on all emergency evacuation plans and post emergency evacuation plans with complete information in all areas, including the inventory warehouse.
7. Track and conduct statistical analysis for workers' illnesses.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. remediated immediately on the first day of the assessment.
2. factory has repaired the dormitory fire alarm button, guarantee the bell rang.
3. The fire alarm system have a backup battery, see appendix 11 《fire alarm backup battery》.
4. we have removed the "exit" sign on the top of the two rolling doors, and the rolling doors are only used for loading and unloading. We have another 3 exits in this building. See Attachment 12.
5. We will improve our fire drill in the future and ensure 100% attendance.
6. see attach 24 for emergency evacuation posted on the fifth floor of the five-storey production building.
7. we have updated emergency evacuation plans with all exits marked, see attach 25.
8. We have started to track and conduct statistical analysis for workers' illnesses, see attach 26.

Planned completion date

11/28/18

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The five storey production building was completed in 2007 with a floor area of 4,368 square meters and a building area of 15,880 square meters, however, factory has not installed automatic fire extinguishing system for this building. [HSE.6.1]

2. One evacuation door on the second floor and one evacuation door on the third floor of the five storey production building are only 60 cm wide, which is less than the legally required width (90 cm) for an evacuation door. [HSE.5.1]
3. The factory does not provide adjustable workstations for sitting workers. [HSE.17.1]
4. The factory has established written lockout-tagout (LOTO) policies and procedures, but it has not created a list of equipment and machines that require the LOTO procedure. [HSE.14]

Local Law or Code Requirement

Code of Design on Building Fire Protection and Prevention, Articles 3.7.5 and 8.3.1. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.5, HSE.6, HSE.14 and HSE.17)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Automatic sprinkler system installation has been reported to head office, has not been approved. We have a third party to check all our fire fighting equipments, see attach 20&21.
2. the third floor on the second floor of the evacuation door has been widened, see appendix 9 《evacuation door》.
3. we are pending to provide back-rest chair to long sitting workers, but can not finish before the year 2020. But we will provide work training to low the risk, and will also give half-time break to the long sitting workers. see attach 22 for work training record.
4. see attachments 10 《management method for lockout-tag out and list. See attach 29 for the equipment list.

Planned completion date

02/28/19

FINDING NO.7

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Environmental Protection

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

1. The factory does not periodically review and update the policies and procedures for the following Employment Functions: Termination & Retrenchment; Workplace Conduct & Discipline. [ER.1.3]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3)

COMPANY ACTION PLANS

Action Plan no 1.

Description

We updated policies every year but no file record before. Now we have procedures in file, see attachment 19 and 23.

Planned completion date

02/28/19

FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory does not provide specific training for the workers with maintenance responsibilities on maintenance safety. [HSE.14.2]
2. The factory does not provide specific training on the tasks and functions of chemical tank management for those workers working with chemical tanks in any manner. [HSE.9.2]
3. The factory does not conduct specific workplace safety training to designated employees with special responsibilities. [HSE.6.2]
4. The ongoing training for employees is missing below Employment Functions: Recruitment, Hiring & Personnel Development; Termination & Retrenchment and Environmental Protection. [ER.1.2, ER.15.2, ER.28.1]
5. The specific training for managers and supervisors is missing across below Employment Functions including Recruitment, Hiring & Personnel Development; Termination & Retrenchment and Environmental Protection. [ER.17.1, ER.17.3]
6. The factory does communicate its environmental protection program to the general workforce, including new workers. [ER.15.1, HSE.2]
7. The factory does not conduct regular training to workers regarding environmental protection. [ER.15.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, ER.17 and ER.28; Health, Safety and Environment Benchmarks HSE.2, HSE.6, HSE.9 and HSE.14)

COMPANY ACTION PLANS

Action Plan no 1.

Description

- 1.Has provided safety training to the related workers, see appendix 4 《safety personnel training certificate》
2. chemicals we use is only a ordinary home laundry detergent, so there is no special training to employees. And we are planning to give specific training about chemical use in March,2019.
3. see appendix 5 《 special responsibility staff training records》
- 4.,appendix 6 《ordinary staff training records》
5. see appendix 7 《managers and managers training records》
6. appendix 8 《environmental protection training record》

Planned completion date

02/28/19

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. The worker integration component is missing across all Employment Functions: Recruitment, Hiring & Personnel Development; Compensation; Hours of Work; Industrial Relations; Grievance System; Workplace Conduct & Discipline; Termination & Retrenchment; Environmental Protection and Health & Safety. 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, ER.16, ER.25]

Local Law or Code Requirement

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

COMPANY ACTION PLANS

Action Plan no 1.

Description

We inform and ask advices from workers for related functions. See appendix 3 《labour union notice for advice》

FINDING NO.11

NOTABLE FEATURE

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has installed air conditioners in the production area.

FINDING NO.12

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. The factory does not have written policies or procedures on Personnel Development, including: a) a policy on performance reviews that includes steps and processes, demonstrates linkages to job grading, prohibits discrimination, provides written feedback, and complies with legal requirements; b) policies and procedures 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 and beyond, and; c) policies and procedures with regard to promotion, demotion, and job reassignment that outline the criteria for promotion, demotion, and job reassignment scheme, demonstrate linkages to job grading, and prohibit discrimination or use of demotion or job reassignment as a form of penalty or punishment. [ER.1, ER.28.1, ER.29.1, ER.30.1]

2. The factory does not have an appropriate system to respond to any unexpected environmental emergency such as chemical spills or gas leak. [HSE.5.4]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.28, ER.29 and ER.30; Health, Safety and Environment Benchmark HSE.5)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. We have related files but not detailed enough, so we revise and improve the document for all related personnel policy files. With promotion procedure included as 3 more files as appendix 1.

2. Our company applied for HIFGG environment system certification in October 2018, with system files and a standardized corporate environment and safety management. But we don't have dangerous chemicals in our factory, so there is no waste gas or chemicals leakage. See appendix 2 for 《action program for environment pollution accident emergency》

Planned completion date
02/28/19

Action Plan no 2.

Description

We have related files but not detailed enough, so we revise and improve the document for all related personnel policy files. With promotion procedure included as 3 more files as appendix 1.

Planned completion date
02/28/19