



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: MBI, Inc.
COUNTRY: Thailand
ASSESSMENT DATE: 12/16/17
ASSESSOR: FLA China
PRODUCTS: Apparel
NUMBER OF WORKERS: 2800

FLA Comments

This report was submitted to the FLA and the FLA affiliated company by the assessor. Despite deadline reminders and extensions for submission of a corrective action plan, the FLA has not received a plan to address the risks and noncompliances raised in the report. Therefore, the report is posted in its current state and will be updated once a corrective action plan has been submitted to and reviewed by the FLA.

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

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. The Recruitment, Hiring & Personnel Development Policy and Procedures are not well established. For example:

a. The factory does not have any written policies or procedures on Recruitment, Hiring & Personnel Development; there is only a simple work flow for the recruitment of Burmese workers. ER.1, ER.28, ER.29

b. There are no written policies or procedures regarding performance reviews that outline the process, demonstrate linkages to job grading, prohibit discrimination, are provided in writing, seek feedback and agreement/disagreement from workers in writing, and follow all local legal requirements. ER.29

c. There are no written policies or procedures for promotion, demotion, and job reassignment that are transparent and fair in their implementation. Promotions are based on management decisions and there are no specific criteria or procedures. ER.29, ER.30

2. The procedures on Workplace Conduct & Discipline and the Grievance System are available in the company regulation/employee handbook. However, they are not well established. For example:

a. There is no mechanism that allows workers to report harassment or grievances confidentially, including any concerns or problems they may be experiencing around legally-owed payments during the retrenchment process. ER.23.3

b. There are no written procedures that allow for workers and their immediate supervisors to directly settle a grievance. ER.23.3.1

3. The factory does not have policies in place for managing all working hours, overtime, and leave records in both normal and exceptional circumstances. ER.23.1

4. There are policies according to the Thai Labor Standards which cover forced labor, child labor, nondiscrimination, harassment & abuse, and safe working environments for pregnant workers. However, these policies do not have any written procedures. ER.1

5. The factory does not have any written policies or procedures for Termination and Retrenchment. The factory does have procedures for managing termination in the factory's rules and regulations but there is no written policy on termination. ER.1, ER.32

6. The factory does not have any written policies or procedures on Industrial Relations, including Freedom of Association. ER.1, ER.25

7. The Environment policy and procedure lacks the following information:

- a. A statement of the factory management's general support of energy and water efficiency and a commitment to minimize impacts with respect to air emissions, waste, hazardous materials, and other applicable environmental risks. HSE.1
 - b. Procedures to elicit and investigate environmental concerns or violations.
 - c. Plans to reduce the factory's pollution, such as production waste and air emissions.
 - d. Procedures for managing the factory's environmental impact on its surroundings. The assessors found some documents or systems to these manage practices.
8. The factory's Health & Safety procedures do not include the following:
- a. An emergency plan, including a list of responsible staff for coordinating the evacuation process, and steps to ensure that pregnant and disabled workers are evacuated safely in the event of an emergency;
 - b. Procedures for the prevention of occupational diseases, including measures to protect the reproductive health of workers through minimizing exposure to workplace hazards;
 - c. Procedures on hygiene and sanitation to prevent food poisoning;
 - d. Procedures on how to ensure that pregnant and disabled workers, all personnel, visitors, contractors, and service providers are safely evacuated.
 - e. Periodic visual control procedures for asbestos containing roofing material. ER.31 HSE.5, HSE.9, HSE.12

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.23.1, ER.23.3, ER.23.3.1, ER. 25, ER.28, ER.29, ER.30, ER.31, and ER.32; Health, Safety & Environment Benchmarks HSE.1, HSE.5, HSE.9, and HSE.12)

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory's orientation training does not include Industrial Relations or Human Resources policies. Furthermore, workers are not provided with training materials or documentation of all the issues covered in the orientation, including the FLA Workplace Code and Benchmarks. ER.1.2, ER.15.1 and ER.15.3
2. The factory does not provide specific or ongoing training to supervisors or workers on the following Employment Functions: Recruitment, Hiring & Personnel Development, Hours of Work, Compensation, Termination & Retrenchment, Industrial Relations, Workplace Conduct & Discipline, Grievance Systems, and Environmental Protection. ER.1.2, ER.17, ER.25, ER.27
3. The factory does not conduct regular training to all workers on environmental protection. ER.1, ER.27, HSE.5
4. Pregnant workers do not attend trainings on workplace safety or the emergency preparedness training program (e.g. evacuation drill), because they are asked to stay at their workstation during this training. ER.1, HSE.1
5. The maintenance and wastewater treatment operator teams have not received training on working in confined spaces. HSE.14.2

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.1.2, ER.15.1, ER. 15.3, ER.17, ER.25, and ER.27; Health, Safety & Environment Benchmarks HSE.1, HSE.5, and HSE.14.2)

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. Since the factory does not have policies and procedures on Recruitment, Hiring & Personnel Development or Termination & Retrenchment, it does not communicate these policies and procedures and their updates to the general workforce. ER.1, ER.28, ER.29, ER.30, ER.16, ER.32
2. The factory does not communicate the grievance system policy and procedures or its updates to the general workforce. The workers are only informed about the Grievance System during new worker orientation. ER.16, ER.25
3. The factory does not communicate the Environmental Protection policy and procedures or their updates to the general workforce, including new workers. ER.16
4. The factory does not involve any worker representatives in the development of the policy and procedures of any of the Employment Functions. ER.25
5. An occupational health and Safety committee has been formed. However, no minority groups (Burmese) are involved in the OSH committee. HSE.1

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.16, ER.25, ER.28, ER.29, ER.30, and ER.32; Health, Safety & Environment Benchmark HSE.1)

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

1. The factory does not periodically review the current policies and procedures regarding Forced

Labor, Child Labor, Non-Discrimination, Harassment and Abuse, Safe Working Conditions for Pregnant Workers, or Environmental Protection. ER.1

2. Since the factory does not have policies and procedures on Recruitment, Hiring, & Personnel Development, Industrial Relations, Termination & Retrenchment, there is no periodic review. ER.1

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1)

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Responsibility & Accountability (Macro)

Finding Explanation

1. The factory has not clearly defined, in writing, the person(s) responsible for Recruitment, Hiring & Personnel Development, Hours of Work, Termination & Retrenchment, Workplace Conduct & Discipline, Industrial Relation and Environmental Protection except Health & Safety. The responsibilities are defined partially and informally. ER. 1

2. The factory does not clearly identify the person with ultimate responsibility/accountability within the factory. The responsibilities are defined partially and informally. ER.1

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1)

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

- 1.The factory is not responsible for all fees associated with the employment of workers. Workers pay the recruitment fee. The employer does not have system in place to ensure that the workers do not overpay the agent in Myanmar. ER. 6.2
- 2.The daily workers do not have job descriptions to be used for hiring, promotion, and personal development. ER.1
- 3.The Burmese workers are required to go through a medical examination in Myanmar which includes HIV/AIDs and pregnancy testing. The recruitment agency in Myanmar processes these examinations. The factory could not verify if the recruitment agency was using the results of the medical examination as part of the workers' applications. ND.5, ND.10

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, and ER. 6.2; Non-discrimination Benchmarks ND.5, and ND.10)

Recommendations for Immediate Action

1. Ensure that the fees associated with the employment of workers are the sole responsibility of the employers.
2. Cease the practice of requiring Burmese workers to go through medical examinations with HIV/AIDS and pregnancy testing. Employment decisions should be based solely on candidates' qualification without discrimination.

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The employer provides free transportation service to MOU Burmese workers during the first four months of the probation period. However, other Burmese and Thai workers are not entitled to this service. ND.3
2. Only Thai workers are entitled to the provident fund benefit. ND.3
3. The probation period is 120 days, which is more than 90 days. Workers are entitled to additional daily wages and benefits after probation. C.3
4. The employer uses hidden or multiple payroll records in order to hide overtime and to falsely demonstrate working hours. Payroll and working hours records shown to the auditors were not authentic and accurate. C.16, C.15
5. The resigned workers do not receive the payment of their unused annual leave and annual bonus if they resign between November and January since the annual bonus payment date is around February. ER.19, C.4, C.5, C.6

Local Law or Code Requirement

The Labor Protection Act B.E. 2541, Section 30, FLA Workplace Code (Employment Relationship Benchmark ER.19; Compensation Benchmarks C.3, C.4, C.5, C.6, C.15, and C.16, Nondiscrimination Benchmark ND.3)

Recommendations for Immediate Action

1. Reduce the probation period to three months, as required by FLA benchmarks.
2. Cease the practice of double bookkeeping and ensure that only one set of records are maintained that reflects actual working time and compensation.
3. Pay the unused annual leave and annual bonuses to those whose employment ends between the end of the year.

FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The working hours records do not identify pregnant and lactating women in the system. HOW.5
2. The factory does not provide accurate time records and the assessors found multiple time-keeping systems and records. The records are neither authentic nor accurate. The working hours records found in the production area are different from the working hours records that the HR office provided to the auditor. The following inaccuracies were found:
 - a. The production output reflected that workers worked until 22:30 on November 28 and 29, 2017 while the workers printout attendance records showed that the workers only worked until 21:30.
 - b. The workers personal OT record in the production line showed the maximum overtime as follows: Jan, 2017: 22 hours/week; Feb, 2017: 21 hours/week; March 2017: 17 hours/week; April 2017: 15 hours/week; May 2017: 22 hours/week; June, 2017: 16 hours/week; July, 2017: 16 hours/week; August, 2017: 16.5 hours/week; September, 2017: 15 hours/week; October, 2017: 21 hours/week; and November, 2017: 20 hours/week. However, none of the workers' print out attendance records disclosed that workers worked more than 12 hours/day or 60 hours/week. HOW.1.3, HOW.8.3, ER 23.
3. The factory's production plan always includes overtime. Furthermore, the factory management set production targets at a level such that workers

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.23, and ER.24; Hours of Work Benchmarks HOW.1.2, HOW.1.3, HOW.5, HOW.8.3, HOW.8.4)

Recommendations for Immediate Action

1. Take steps to identify pregnant and lactating women in the system.
2. Cease the practice of double bookkeeping and ensure only one set of records are maintained that reflects actual working time and compensation.

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

- 1.The factory does not maintain records of disciplinary actions in workers' personnel files. ER.2, ER.27
- 2.The factory publicly posts the names of workers subject to disciplinary measures on the announcement board. H/A.6

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.2, and ER.27; Harassment and Abuse Benchmark H/A.6)

Recommendations for Immediate Action

Cease the practice of posting names of workers subject to disciplinary measures on the announcement board.

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The factory does not provide any office space or other facilities to the worker representatives (the Welfare committee and the ESH committee). FOA.15

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmark FOA.15)

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

1. There are three different suggestion boxes in the factory, one from HR and two from top management. Based on the record review, there are no records of complaints through this channel. ER.2, ER.25
2. The employer does not have a clear and transparent system of worker and management communication that enables workers to consult with and provide input to management. The Burmese workers are not aware of the existing suggestion box and complaint process. ER.25.2

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.2, ER. 25, and ER.25.2)

FINDING NO.12

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The factory has identified whether its on-site operations generate any negative environmental impacts. However, the factory does not make efforts or setup programs to reduce its environmental impact. ER.31, HSE.1
2. The factory does not post Material Safety Data Sheets (MSDS). Furthermore, none of chemical containers are equipped with a secondary container in the chemical storage room in the plating facility. HSE.9, HSE.10
3. The factory only maintains some documents related to environmental protection. The factory only made available the Wastewater Treatment Management, the Hazardous Domestic Waste Management, and the Recycled Material documents. The factory did not provide other documents, such as the air emissions document. HSE.2

Local Law or Code Requirement

The Occupational Safety, Health and Environment Act, B.E. 2554 (A.D. 2011), Section 6; FLA Workplace Code (Employment Relationship Benchmark ER. 31; Health, Safety & Environment Benchmarks HSE.1, HSE. 2, HSE.9, and HSE.10)

Recommendations for Immediate Action

Post all MSDS in all languages spoken by workers and equip secondary containers to all chemical containers to prevent leakage.

FINDING NO.13

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The factory does not commit a third-party expert to conduct a fire risk assessment; the factory has only conducted an internal fire risk assessment, done by an internal safety officer. HSE.5, HSE.1

Local Law or Code Requirement

FLA Workplace Code (Health, Safety, & Environment Benchmarks HSE.1, and HSE.5)

Recommendations for Immediate Action

1. Commission a third-party expert to conduct a fire risk assessment.

FINDING NO.14

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

- 1.The factory has not posted signs indicating the weight limits of the hand carriage machine or on the shelves in the accessory and material warehouse building. HSE.14
- 2.The compressed air tank is not fixed to its permanent position. HSE.1
- 3.The factory has not fully implemented its ergonomics program. Not all workers have been provided with adjustable chairs with back rests. Only pregnant workers are provided with chairs with back rests. HSE.17
- 4.The factory is still using the safety body belt to perform work at high elevations. OHSAS banned this safety body belt was banned in 1998. These body belts are not acceptable as part of a personal fall arrest system. HSE.7
- 5.All LPG gas cylinders for cooking located in the canteen are in the kitchen, while they should be placed outside and away from the cooking oven to prevent a potential fire risk. HSE.5

Local Law or Code Requirement

Occupational Safety, Health and Environment ACT B.E. 2554 (A.D. 2011) Section 6 ; The Notification of Ministry of Labor and Social Welfare Re: Occupational Safety and workplace Environmental Management Methodology B.E. 2549 Chapter 2: Occupational Safety, Health and Environment committee Clause 23 'Section 17; Ministerial regulations Standards for the management of occupational health and safety management and Environment and working with machinery, crane and boiler BE 2552, Article 36; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.5, HSE.7, HSE.14, and HSE.17)

Recommendations for Immediate Action

- 1.Post signs indicating the weight limits of the hand carriage machine and on the shelves in the accessory and material warehouse building.
- 2.Ensure that the air tank is fixed to its permanent position.
- 3.Provide the body belt in a positioning device system that is acceptable and regulated under Paragraph (e) of 29 CFR 1926.502. According to OHSAS, an employee who uses a body belt as a personal fall arrest system is exposed to hazards such as falling out of the belt, serious internal injuries, and technical asphyxiation through prolonged suspension.
- 4.Place all LPG gas cylinders for cooking away from the cooking oven.

FINDING NO.15

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The factory does not post appropriate warning signs near a number of confined spaces, such as the underground wastewater treatment tanks and the aboveground water tanks. Furthermore, the factory has not provided the appropriate rescue equipment for these confined spaces. HSE.6.1, HSE.13, and HSE 14.1

Local Law or Code Requirement

The Occupational Safety, Health and Environment Act, B.E. 2554 (A.D. 2011), Section 6; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.6.1, HSE.13, and HSE.14.1)

Recommendations for Immediate Action

1. Identify all confined spaces in the factory with warning signs. Ensure that the appropriate rescue equipment is available in the case of an emergency.

FINDING NO.16

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. There is no system in place for the identification and replacement of hazardous chemicals with less hazardous alternatives, such as Toluene (CAS no. 108-88-3) containing Thinner and Trichloroethylene (CAS no. 79-01-6). HSE.1

2. The area with asbestos-containing roofing material does not have any warning signs indicating it as such and its hazards. HSE.9

Local Law or Code Requirement

The Occupational Safety, Health and Environment Act, B.E. 2554 (A.D. 2011), Section 6; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, and HSE.9)

Recommendations for Immediate Action

Post warning signs for the hazardous waste area that has asbestos containing roofing material, indicating it as such and the potential health hazards.

FINDING NO.17

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The factory does not have an emergency plan, hazard identification, or procedures for the prevention of Health & Safety issues such as food poisoning and poor hygiene. As a result, the cooking and the dishwashing areas behind the food vendor are not clean & hygiene. HSE.19, HSE.22

Local Law or Code Requirement

FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.19, and HSE.22)

Recommendations for Immediate Action

Identify hazards in the canteen that increase the risk of food poisoning and other hygiene issues. Create and implement procedures for the prevention of these issues, such as a thorough initial cleaning of the canteen, a cleaning plan for canteen workers, swab testing, preparation of the refrigeration system to keep food, and regular inspections by the Canteen Committee.