



COMPANIES: Fenix Outdoor International AG

COUNTRY: Vietnam

ASSESSMENT DATE: 11/02/17

ASSESSOR: One Step Vietnam

PRODUCTS: Apparel

NUMBER OF WORKERS: 936

## FLA Comments

Beginning with assessments conducted in 2017, the Fair Labor Association no longer reviews remediation plans submitted by company affiliates. The remediation plans in this report are reflected in their original form, as submitted by the company affiliate to the FLA. Each year, selected factories receive verification assessments to review remediation progress. These reports appear on the Fair Labor Association website and include the findings from the original report, the company remediation plan, and a link to the original report.

## 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.From July 12, 2017, the factory used the services of a security service company. However, during the assessment, the factory could not provide any records for the three security guards. ER.2
- 2.Based on document review, factory management posted an on-line recruitment notice for sewing positions which includes age requirements for applicants whose age is from 20 to 40 years old only. ER.3.2

##### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.2 and ER.3)

##### Recommendations for Immediate Action

- 1.Ensure time records and payroll records of service provider are available for review.
- 2.Cease age discrimination in the recruitment and hiring process.

#### COMPANY ACTION PLANS

##### Action Plan no 1.

##### Description

The factory provide the records and pay rolls for 03 security guards.

##### Company Action Plan Update

07/05/18 : The factory provide the records and pay rolls for 03 security guards.

### FINDING NO.2

#### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Recruitment, Hiring & Personnel Development

##### Finding Explanation

1. The labor contracts and their annex does not mention worker's working position. Moreover, these contracts showed overtime salary on holidays and days-off with pay at a minimum of 300% instead of at the minimum 300% plus the salary of holiday and days-off for the employee to be provided the daily salary. For example, a worker who has a salary of VND 100,000 (USD 4.39) and works on a holiday should be paid VND 100,000 (USD 4.39) plus 300% at VND 300,000 (USD 13.17), for a total of VND 400,000 (USD 17.56); the contracts only show that the workers get paid VND 300,000 (USD 13.17). In practice, workers are paid the correct amount. In addition, there was no annex of labor contract when adjusted and applied new salary for workers. ER.1
2. There is no timeline for feedback to workers who are using the suggestion box to raise their complaints and grievances. There was no instruction on "how the factory handles complaints and grievances" posted at the suggestion box. Moreover, there were letters found in suggestion box but factory did not keep any letters as well as documents for handling complaints and grievances (from October to December 2016: 12 letters; from January to October, 2017: 56 letters). ER.25
3. The factory did not conduct skill tests during the selection process. In practice, the team leader only informed by verbal to HR department for selection process. ER.3.1
4. There is no system to review the performance of new workers after their probation period has been implemented. ER.29.1
5. Factory has not established the policies and procedures in written regarding promotion, demotion and job reassignment that are transparent and fair in their implementation. ER.30.1
6. The factory did not inform the probation results to workers within three days before ending of the probation period. ER.1
7. The production plan was provided for review. However, it was not based on the working hours of the factory. It was based on the deadline for each shipment. Thus, the production plan also included overtime that is needed for workers to work beyond regular working hours. ER.24
8. Based upon payroll review from October 2016 to September 2017, factory management and workers interview, it was noted that factory provided the responsibly allowance for workers basing on the evaluation by team leader without the evaluation procedure with detail criteria to make sure the transparency and fairly in the evaluation. ER.30
9. Based upon the Collective Bargaining Agreement which was approved on March 30, 2017, it was noted that factory regulated the annual health check-up one time per year instead of twice per year as law requirement. Note: In practice, factory provided annual health check-up for worker twice per year. In addition, the factory did not conduct a periodic review and update of policies and procedures for the following employment functions: Termination & Retrenchment, Workplace Conduct & Discipline, HSE and Grievance System. ER.1.3, ER.31.1

#### Local Law or Code Requirement

Vietnam Labor Law, Article 19, Circular 23/2015/TT-BLDTBXH, Article 6, Vietnam Labor Law, Article 152; FLA Workplace Benchmarks (Employment Relationship Benchmarks, ER.1, ER.3, ER. 24, ER.25, ER.29, ER.30, and ER.31)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1.The factory fix the labor contracts and their annex which mention worker's working positon. Besides, the factory pays attention and adjust the compensation to law requirements. 2.The factory will apply the suggestion box to raise their complaints and grievances. The factory posted "how the factory handles complaints and grievances" at suggestion box. 3.The factory applied and conducted selection process. 4.The factory applied and conducted the peformance of new workers after their probation period. 5.The factory established the policied and procedures in written regarding promotion, demotion and job reassignment that are transparent and fair in their implementation. 6.The factory applied the probation results to workers withing 3 days before ending of the probation period. 7.The factory arranged the production plan which based on the working hours of the factory and it is not beyond regular working hours. 8.The factory was not awareness this issue. The factory will establish the evaluation procedure with detail criteira to make sure the transparency and fairly in the evaluation. 9.The factory adjusted the annual health check-up twice a year in the Collective Bargaining Agreement.

#### Company Action Plan Update

07/05/18 : The factory was not awareness this issue. The factory will establish the evaluation procedure with detail criteira to make sure the transparency and fairly in the evaluation.

## FINDING NO.3

## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Grievance System

#### Finding Explanation

1.The Trade Union who is in-charge of opening the suggestion box, opens the box on Monday every week instead of Saturday every week as regulated in the procedure. ER.25

2. There is no channel of company (Client) provided or posted for workers to contact them. ER.16

#### Local Law or Code Requirement

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

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

The factory adjusted the annual health check-up twice a year in the Collective Bargaining Agreement.

##### Company Action Plan Update

07/05/18 : 1. The factory required the person in charge who opens the suggestion box on Saturday every week as regulated in the procedure. 2. The factory posted the phone number of Trade Union in order to raise workers' complaints and grievances.

### FINDING NO.4

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Termination & Retrenchment

##### Finding Explanation

1. It was noted that there was no Retrenchment Policy or Procedure written in factory. ER.32  
2. Severance allowances were provided only starting from September 2017. Of the five resignation cases reviewed, one resigned worker was not paid the severance payment. C.1

##### Local Law or Code Requirement

Decree No. 05/2015/ND-CP, Art. 14; FLA Workplace Benchmarks (Employment Relationship Benchmark ER.32; Compensation Benchmarks C.1)

##### Recommendations for Immediate Action

Ensure resigned workers are paid severance payment, as legally required.

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

1. The factory established retrenchment Policy or Procedure. 2. The person in charge lack of awareness. The factory improved and paid severance allowance for workers.

##### Company Action Plan Update

07/05/18 : 1. The factory established retrenchment Policy or Procedure. 2. The person in charge lack of awareness. The factory improved and paid severance allowance for workers.

### FINDING NO.5

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

##### Finding Explanation

1. Based upon payroll review from October 2016 to September 2017 and workers interview, it was noted that team leaders signed payrolls for every worker instead of workers themselves. C.14  
2. It could not be verified that one resigned worker had received their final payment. Thus, it could not be verified that this worker was paid sufficiently their final payment or if this worker was paid the final payment within seven days from the termination date. C.4

3. There was no compensation for rest days worked for 15% workers from October 2016 to September 2017. HOW.2
4. There are four cutting workers who only received the wage at VND 3,045,000 (USD 134.26) instead of legal minimum wage at least VND 3,258,150 (USD 134.66) (regional minimum wage VND 2,900,000 x 1.05 (hazardousness allowance) x 1.07 (skill allowance) from October 2016 to September 2017. C.2
5. Factory did not pay the training time (August 27, 2017) for 37 members of network occupational safety-hygiene collaborators and health-check time (June 20-21, 2017) for all workers. C.1
6. 70 pregnant workers and 114 female workers who have child less than 12 months old had working time from 07:30 - 15:30. On September 26, 2017, these workers joined fire drill practice from 15:30 - 17:00, but only received 100% of regular wage instead of 150% for overtime payment. C.7
7. Factory arranged some workers (QC, loading, sewing: seven workers in February 2017; 11 workers in March; 14 workers in April and 25 workers in July) worked overtime in night shift. However, the overtime premium paid for this nightshift work was only 140% instead of 210%. C.7

#### Local Law or Code Requirement

Article 90, Vietnam Labor Law and FLA Benchmarks; Article 97, Vietnam Labor Law; Article 155, Vietnam Labor Law; Labor Code 2012, Art. 47; FLA Workplace Code (Compensation Benchmarks C.1, C.2, C.4, C.7, and C.14; Hours of Work Benchmarks HOW.2)

#### Recommendations for Immediate Action

- 1.Ensure workers received at least minimum wage, as legally required.
- 2.Ensure training time and health check-up time for piece-rate workers are paid, as legally required.
- 3.Ensure workers are paid correct overtime payment, as legally required.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1.The factory required and reminded the workers who have to sign their payrolls and did not allow the team leaders help to sign all payrolls for workers. 2.The factory paid sufficiently their final payment withing 7 days from the termination date. 3.The factory paid more compensation for rest days worked 15% workers from October 2016 to Sept. 2017 4.The person in charge lack of awareness. The factory improved and paid more salary for these workers. The factory will pay attention and require the person in charge to follow up strictly. 5.The person in charge lack of awareness. The factory improved and paid salary for training time and health-check time . The factory will pay attention and require the person in charge to follow up strictly. 6.The person in charge lack of awareness. The factory improved and paid salary for fire drill practice . The factory will pay attention and require the person in charge to follow up strictly. 7.The person in charge lack of awareness. The factory improved and paid salary for working overtime in night shift . The factory will pay attention and require the person in charge to follow up strictly.

#### Company Action Plan Update

07/05/18 : 1.The factory required and reminded the workers who have to sign their payrolls and did not allow the team leaders help to sign all payrolls for workers. 2.The factory paid sufficiently their final payment withing 7 days from the termination date. 3.The factory paid more compensation for rest days worked 15% workers from October 2016 to Sept. 2017 4.The person in charge lack of awareness. The factory improved and paid more salary for these workers. The factory will pay attention and require the person in charge to follow up strictly. 5.The person in charge lack of awareness. The factory improved and paid salary for training time and health-check time . The factory will pay attention and require the person in charge to follow up strictly. 6.The person in charge lack of awareness. The factory improved and paid salary for fire drill practice . The factory will pay attention and require the person in charge to follow up strictly. 7.The person in charge lack of awareness. The factory improved and paid salary for working overtime in night shift . The factory will pay attention and require the person in charge to follow up strictly.

## FINDING NO.6

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Hours of Work

#### Finding Explanation

1. The factory has paid one annual leave day per month for all workers, independent of workers taking annual leave or not. Thus, if a worker takes more than one day-off, they have to take unpaid leave even if they have unused annual leave. HOW.13
2. Based on the working hour policy approved on January 7, 2017, it was noted that the policy regulated working hours as from 07:30 – 16:30, with workers arriving 10 minutes early to prepare for working conditions. HOW.1
3. The time records from October 2016 to September 2017 noted that 15% of the workforce had an average of 63 working hours per week

- with a maximum of 68 hours per week, including overtime and Sunday work. This exceeds the FLA requirement on working hours which only permits 60 working hours per week, including overtime. HOW.1, HOW.8
4. The time records from October 2016 to September 2017 noted that 15% of the total of workforce did not have 24 consecutive hours of rest in every seven day period, specifically in the period between October 2016 to September 2017. The workers worked consecutively from 7 to 21 days per month. In addition, five internal security guards worked consecutive 30 days in the last 12 months. HOW.2
5. The time records from October 2016 to September 2017 noted that some workers (QC, loading, sewing: 7 workers in February 2017; 11 workers in March 2017; 14 workers in April and 25 workers in July) had daily excessive working hours up to 5 hours in the mentioned period instead of only 4 hours OT hours per day as per legal requirement. HOW.8
6. The time records from October 2016 to September 2017 noted that 15% of the workforce had averaged 45 OT working hours with maximum to 68 hours per month. This exceeds legal requirement which only permits 30 overtime hours per month. HOW.8

#### Local Law or Code Requirement

Article 110, Vietnam Labor Law; Section 2, Article 106, Vietnam Labor Law; Labor Code 2012, Art. 111; FLA Workplace Code (Hours of Work Benchmarks HOW.1, HOW.2, HOW.8, and HOW.13)

#### Recommendations for Immediate Action

- 1.Ensure weekly working hours shall be followed law and regulation.
- 2.Ensure rest day benefit shall be followed law and regulation, as legally required.
- 3.Ensure regular working hours, daily overtime working hours shall be followed law and regulation, as legally required.
- 4.Ensure overtime working hours shall be followed law and regulation, as legally required.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1.The factory will notice this issue and establish the policy to pay annual leave day depend on the day off. 2.The factory noticed this matter and adjusted the working our policy which noted that the policy regulated working hours as from 7:30 - 16:30. 3.The factory check production plan and reduce the overtime and do not work on Sunday. The manager required the person in charge to check this issue regularly. 4.The factory check production plan and reduce the overtime and do not work on Sunday. And, the factory ensure have day off if workers worked consecutively 7 days. The manager required the person in charge to check this issue regularly 5.The factory check production plan and reduce the overtime and do not work on Sunday. The manager required the person in charge to check this issue regularly 6.The factory check production plan and reduce the overtime and do not work on Sunday. The manager required the person in charge to check this issue regularly

#### Company Action Plan Update

07/05/18 : 1.The factory will notice this issue and establish the policy to pay annual leave day depend on the day off. 2.The factory noticed this matter and adjusted the working our policy which noted that the policy regulated working hours as from 7:30 - 16:30. 3.The factory check production plan and reduce the overtime and do not work on Sunday. The manager required the person in charge to check this issue regularly. 4.The factory check production plan and reduce the overtime and do not work on Sunday. And, the factory ensure have day off if workers worked consecutively 7 days. The manager required the person in charge to check this issue regularly 5.The factory check production plan and reduce the overtime and do not work on Sunday. The manager required the person in charge to check this issue regularly 6.The factory check production plan and reduce the overtime and do not work on Sunday. The manager required the person in charge to check this issue regularly

## FINDING NO.7

## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Workplace Conduct & Discipline

#### Finding Explanation

- 1.Based upon observation and CCTV review, it was noted that factory installed one CCTV with main direction to the toilet. This was potential risk for harassment or abuse of workers. H/A.8
- 2.The male and female distribution of the factory is 15% and 85%. However, the facility had only male security guards. Thus, in case of legitimate reason and upon consent of workers to conduct the physical pat downs, there would be no female security to conduct the pat down to female workers. H/A.10.2



## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1.The factory uninstalled CCTV in the way to go to the toilet. The factory lacks of awareness this issue 2.The factory appointed a female to conduct the physical pat down to female workers.

#### Company Action Plan Update

07/05/18 : 1.The factory uninstalled CCTV in the way to go to the toilet. The factory lacks of awareness this issue .2.The factory appointed a female to conduct the physical pat down to female workers.

## FINDING NO.8

## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Environmental Protection

#### Finding Explanation

1.The factory has not obtained the waste water treatment permit. As per confirmed by the factory management, they were in progress to obtain the waste water discharge permit. The factory management stated that the local authority already inspected the waste water treatment plant and the local authority would issue the permit later. HSE.4  
2.The non-hazardous wastes were not classified for recyclable and non-recyclable types. HSE.1

#### Local Law or Code Requirement

Decree No. 201/ND-CP, Art. 16; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1 and HSE.4)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1.The factory had received the waste water treatment permit on 28th January 2018。 2.The factory awared this issue and required the person in charge to conduct strictly.

#### Company Action Plan Update

07/05/18 : 1.The factory had received the waste water treatment permit on 28th January 2018。 2.The factory awared this issue and required the person in charge to conduct strictly.

## FINDING NO.9

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Health & Safety

#### Finding Explanation

1. One out of two compressor operators and one electrician have not attended Health and Safety training, as legally required. HSE.14  
2. No professional training provided to Boiler operator. There is also no back-up person to operate boiler in case boiler operator is absent. HSE.1  
3. The factory does not have a maintenance schedule for fire alarm and fire-fighting system (including fire-extinguisher). The factory has conducted the internal inspection for the fire protection only. HSE.6  
4. According to the Inspection Report of the local Fire Police Department on September 14, 2017, the factory was required to design and install the automatic fire alarm system and automatic fire-fighting system at workshop #1. Currently, the factory has not installed those systems yet. HSE.6

5. The fire alarm control panel had error indicators. It was located at the security room. HSE.5
6. According to the Inspection Report of the local Fire Police Department on September 14, 2017, the factory was required to revise the fire insurance contract. The fire insurance contract has to be separated from the general insurance contract. HSE.1
7. The fire-fighting team had 45 members including one captain. However, the team did not have at least two vice-captains as legally required. HSE.1
8. Some emergency exit routes (aisles) were partially blocked at the cutting area and sewing area by the semi-products. HSE.5
9. Some evacuation plot plans at the cutting and finishing area were not marked with sufficient information such as emergency exit routes, doors, location of fire alarm or fire hose. HSE.5
10. Some fire alarm buttons at the finishing area were required to keep pressing by hand to operate the fire alarm continuously. HSE.5

#### Local Law or Code Requirement

Decree No. 44/2016/ND-CP, Art. 17; QCVN 01:2008/BLDTBXH, Article 5;; Circular No. 220/2010/TT-BTC; Circular No. 66/2014/TT-BCA, Art. 5; Circular No. 66/2014/TT-BCA, Art. 15; TCVN 3890:2009, Art. 6; TCVN 5738:2001, Art. 6; Vietnam Building Code No. QCVN 06:2010/BXD, Art. 3; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.5, HSE.6, and HSE.14)

#### Recommendations for Immediate Action

1. Ensure air compressor operators and electrician is provided with Health and Safety training by competent authority, as legally required.
2. The factory shall provide professional training to operate the boiler for the boiler operator as legally required. In addition, factory shall assign a back-up person in case only one operator absents.
3. The fire alarm system, fire-fighting system, fire extinguishers shall be maintained periodically as legally required.
4. The automatic fire alarm system and automatic fire-fighting system shall be installed, as legally required.
5. The fire alarm control panel shall be maintenance, as legally required.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1.The factory let 2 compressor operators and one electrician to take part in Health and Safety training as legally required. 2.The factory let Boiler operator to take part in Health and Safety training as legally required. 3.The factory invited Fire Police Dept. to check the fire alarm, fire fighting system including fire-extinguisher. 4.The factory will arrange the schedule and install the automatic fire alarm in May 2018, and automatic fire fighting system at workshop #1 in 2019. 5.The factory fixed fire alarm control panel. 6.The factory seperated the fire insurance contract from the general insurance contract. 7.The factory supplemented 2 vice-captains in the fire-fighting team as legally required. 8.The manager required the person in charge at cutting area and sewing area check the issue regularly. 9.The manager required the person in charge at cutting area and finishing area check the issue regularly. 10.The factory installed some new fire alarm buttons at the finishing area which just push one time to operate the fire alarm contiuously.

#### Company Action Plan Update

07/05/18 : 1.The factory let 2 compressor operators and one electrician to take part in Health and Safety training as legally required. 2.The factory let Boiler operator to take part in Health and Safety training as legally required. 3.The factory invited Fire Police Dept. to check the fire alarm, fire fighting system including fire-extinguisher. 4.The factory will arrange the schedule and install the automatic fire alarm in May 2018, and automatic fire fighting system at workshop #1 in 2019. 5.The factory fixed fire alarm control panel. 6.The factory seperated the fire insurance contract from the general insurance contract. 7.The factory supplemented 2 vice-captains in the fire-fighting team as legally required. 8.The manager required the person in charge at cutting area and sewing area check the issue regularly. 9.The manager required the person in charge at cutting area and finishing area check the issue regularly. 10.The factory installed some new fire alarm buttons at the finishing area which just push one time to operate the fire alarm contiuously.

## FINDING NO.10

## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Health & Safety

#### Finding Explanation

1. There were two cases of accidents that happened in September and October 2017. The investigation forms were provided for review. However, the process to handle the accident was not followed the latest requirement (Decree No. 39/2016/ND-CP). HSE.1
2. The first aid kits were equipped at the canteen and at the workplaces. However, they were lacking of required items such as waterproof nylon pads, safety goggles, splints... HSE.18
3. The foods samples were not kept at least 72 hours. They were kept 24 hours instead. HSE.22.1



4. The ergonomic assessment has not been conducted yet. The sewing workers and other workers who sitting during the working hours were not provided with the chair with back-support and could be movable to adjust the height of the chair. HSE.17
5. The gas cylinders at the canteen were not chained to prevent the falling. HSE.14
6. Some hand-washing basins at the canteen could not discharge the water. Thus, they were nonfunctional. HSE.19
7. The facility did not have a breastfeeding room for female workers. ND.8.1

#### Local Law or Code Requirement

Decree No. 39/2016/ND-CP, Art. 10 – 16; Circular No. 19/2016/TT-BYT on Guidelines for Occupational Health and Safety Management (2016), ANNEX 4; Labor Code 2012, Art. 138; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.14, HSE.17, HSE.18, HSE.19, and HSE.22; Nondiscrimination Benchmark ND.8)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1.The person in charge did not aware this problem. So, the factory applied new process to handly the accident as lastest requirement. 2.The factory added more required items such as waterproof nylon pads, safety goggles, splints... in all first aid kits. 3.The person in charge did not aware this problem. So, the factory applied new process with the food samples kept at least 72 hours. 4.The factory did not aware this issue. The factoy provided the chair with back-support for sewing workers and other workers who sitting during the working hours. 5.The factory equipped the chain to prevent the falling of the gas cylinders at the canteen. 6.The factory installed the pipe which discharge the water at the canteen. 7.The factory will arrange and set up a breastfeeding room for female workers in 2019.

#### Company Action Plan Update

07/05/18 : The factory will arrange and set up a breastfeeding room for female workers in 2019.