



FAIR LABOR  
ASSOCIATION<sup>®</sup>

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Under Armour, Inc.

COUNTRY: Haiti

ASSESSMENT DATE: 08/21/18

ASSESSOR: Yralmi Brito

PRODUCTS: Apparel

NUMBER OF WORKERS: 119

## 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: Health & Safety

##### Finding Explanation

1. One out of the two forklifts in the factory did not have side mirrors or back lights. [HSE.1, HSE.14]
2. The one forklift driver in the factory did not have a driver's license. The factory did provide maintenance and training records for review. [ER.2, HSE.1, HSE.14]

##### Local Law or Code Requirement

Labor Code, Articles 441 and 448; FLA Workplace Code (Employment Relationship Benchmarks ER.2.1 and ER.2.1.1; Health, Safety and Environment Benchmarks HSE.1, HSE.14)

##### Recommendations for Immediate Action

1. Provide regular maintenance to forklifts, and ensure that they are safely driven. Keep records of maintenance provided to all machinery, especially fork lifting devices.
2. Ensure that all licenses and training are up-to-date in employee records.

#### COMPANY ACTION PLANS

##### Action Plan no 1.

##### Description

"Immediate Action Required:

1. Provide regular maintenance to forklifts, and ensure that they are safely driven. Keep records of maintenance provided to all machinery, especially fork lifting devices.
2. Ensure that all licenses and training are up-to-date in employee records."

### FINDING NO.2

#### SUSTAINABLE IMPROVEMENT REQUIRED

## FINDING TYPE: Recruitment, Hiring & Personnel Development

### Finding Explanation

1. During documentation review, management interviews, and worker interviews, it was noted that the facility does not have training records related to Under Armour's and FLA's Code of Conduct to direct workers. [ER.16.1]
2. During documentation review, management interviews, and worker interviews, it was noted that the facility does not have training records related to Under Armour's and FLA's Code of Conduct to Supervisors [ER.17.1]
3. The factory does not conduct performance reviews for production workers.[ER.29.1]
4. During documentation review it was noted that the promotion for direct workers do not have all the documentation based on workers job performance because the factory does not conduct performance reviews for production workers.[ER.29.1]

### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER16.1, ER.17.1, ER.29.1)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

"Sustainable Improvement Required:

1., 2.

The factory must identify the person who will conduct documented educational sessions (in, and with materials in,) the local language and any other applicable dialects and languages, with its workers, supervisors and managers about their legal rights and responsibilities, and its written personnel policies covering topics such as: a) wages; b) benefits; c) deductions; d) vacations; e) leave; f) regular hours; g) overtime hours; h) regular and overtime pay rates; i) discipline and termination; j) grievance procedures, k) harassment/abuse, l) the Under Armour Code of Conduct; m) the Fair Labor Association's Workplace Code of Conduct (<http://www.fairlabor.org/our-work/labor-standards> and related benchmarks (copies attached here); n) incentive schemes; o) promotion; p) job-re-assignment, and q) compliance with all applicable laws. Going forward, the factory also must address these topics with newly hired personnel in documented meetings. The meeting documentation should be filed in each worker's personnel file, and include: i) the date of the meeting; ii) a completed checklist of the topics covered; iii) the worker's typed/printed name and (factory identification number (FIN), if applicable) workers' signature, and iv) the typed/printed name (FIN, if applicable), the title and the signature of the factory representative that conducted the meeting. The factory must document its efforts (interactive training, with questions and answers about the topics/sections) to ensure that all: a) managers; b) supervisors and c) workers are knowledgeable (know the topics/sections/content) of both: i) the Under Armour Code of Conduct and ii) the Fair Labor Association's Workplace Code of Conduct (<http://www.fairlabor.org/our-work/labor-standards> and related benchmarks. Please send us supporting documentation for the ongoing training, such as a schedule for training, attendance sheets, and photos.

3., 4.

The factory must identify the top manager and teams who will

- a. Develop and review (annually) policies and procedures for Personnel Development; including performance reviews for all workers (direct/indirect) that i) outline review steps and process, ii) demonstrate linkages to job grading, iii) prohibit discrimination, iv) are provided in writing and seek feedback and agreement/disagreement from employees in writing, v) and that follow all local legal requirements.
  - b. Facilitate communication with and active participation from workers on the development of the policies and procedures, continuous training to broaden worker skills, and develop a mechanism for workers to express their views and opinions on Personnel Development.
  - c. Facilitate ongoing evaluations and revisions of policies and procedures.
  - d. Provide continuous training for all workers, supervisors, and managerial staff on the new policies and procedures.
  - e. Include information on the new Personnel Development policies and procedures during worker orientation or induction process.
  - f. Designate staff with the responsibility for policy/procedure enforcement and implementation.
  - g. Provide workers with documents detailing the information that is covered during the orientation or induction process.
- Please send us a copy of the new policies and procedures"

## FINDING NO.3

## IMMEDIATE ACTION REQUIRED

## FINDING TYPE: Hours of Work

### Finding Explanation

1. During documentation review and worker's interviews, it was noted that 8% of employees did not receive a rest day during a 7-day period from October 9-21, 2017. Also, 6.40% of workers were not provided a rest day during a 7-day period from March 5-17, 2018, and 5.2% of workers were not given a rest day within most recent paid period from June 15-July 7, 2018. [HOW.1.1, HOW.2]
2. During documentation review and workers interviews, it was noted that 20% of workers worked between 61.5 and 64.5 hours during the paid periods from October 9-21 2017, March 5-17, 2018, and June 15-July 7, 2018. [HOW.1.1, HOW.1.2, HOW.8.3]
3. Based on documentation review, the factory does not have an established time recording system showing the exact start time of a worker's shift. Based on the time records reviewed from August 2017-August 2018, 15 of 30 workers had an irregular start time. The work schedule start time must be established in written procedures with a length of time not exceeding 15 minutes in order to avoid inconsistencies based on the schedule of entry. Despite these inconsistencies, workers confirmed that they have been paid for all hours worked and confirmed that overtime is voluntary. [ER.23.5]

### Local Law or Code Requirement

Haitian Labor Code (1984), article 107; FLA Workplace Code (Employment Relationship Benchmark ER.23.5; Hours of Work Benchmarks HOW.1.1, HOW.2, HOW.8.3)

### Recommendations for Immediate Action

1. Ensure that all workers are provided with 24 consecutive hours of rest in a 7-day period of work. Continuously review production capacity to ensure that overtime is only needed in exceptional circumstances. Management, supervisors, and workers need to be retrained on FLA Workplace Working Hours Code and Benchmarks.
2. Ensure that workers do not work more than 60 hours in a week. Review production goals and clients' schedules so that the factory can comply with clients and not need to work more than 60 hours per week.
3. The factory should maintain accurate time records (start/out/break and leaves) for workers.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

"Immediate Action Required:

1. Ensure that all workers are provided with 24 consecutive hours of rest in a 7-day period of work. Continuously review production capacity to ensure that overtime is only needed in exceptional circumstances. Management, supervisors, and workers need to be retrained on FLA Workplace Working Hours Code and Benchmarks.
2. Ensure that workers do not work more than 60 hours in a week. Review production goals and clients' schedules so that the factory can comply with clients and not need to work more than 60 hours per week.
3. The factory should maintain accurate time records (start/out/break and leaves) for workers."

### Action Plan no 2.

#### Description

1. Going forward, the factory must permit workers to take off from work and rest on the paid leave days to which they are entitled. The factory should consider retroactively providing to all workers who worked on a past rest day with an alternative and actual rest day in the coming weeks/months and consistent with local regulations.

The factory must also identify the person that will ensure that:

- a) The factory shall comply with all applicable laws, regulations and procedures governing the payment of premium rates for work on holidays, rest days, and overtime, including paying the legally defined premium rates for overtime and work on holidays or rest days;
- b) Update/enhance compensation/benefits policy and procedure in line with local law requirements; including specific references about OT payment and their appropriate rate. Train supervisors and other managerial positions about the revised policy and procedures. Communicate through different means to workers in their local language and/or dialects about the revised policy and procedures.

Please send to us supporting documentation for each of the action items identified above.

2. The factory must identify the top and middle management personnel who will: 1) conduct documented and regular (daily, weekly and monthly) documented and regular analyses of the factory's hours of work with a view to progressively reducing

excessive hours of work; 2) demonstrate and issue a written commitment to reduce overtime and 3) alter its personnel practices to make a documented effort to maintain a level of staffing that is reasonable in view of predictable or continuing fluctuations in business demand. Factory management is to: address its excessive hours issues:

- a) if established to be necessary, by jointly working with its customers on how to provide better order forecasts;
  - b) Participating in workshops/engaging a consultancy for the factory on how to improve productivity/quality;
  - c) if established to be necessary, by jointly working with its customers to develop clear guidelines on how to extend shipment deadlines in case of contingencies;
  - d) the creation of steps that management must follow if overtime is inevitable (steps for how to communicate with Under Armour's Sourcing and Sustainability teams and other customers);
  - e) clear guidelines on calculating and setting reasonable production targets that will not demand work beyond regular working hours or during breaks; and
  - f) Developing clear guidelines on how and when the factory can use subcontractors (no Subcontractors may be used without meeting the requirements in the MAP's final row, below) and/or temporary workers to avoid excessive overtime.
  - g) re-evaluate the production planning systems and controls in order to ensure that they match their historically demonstrated production capacity in order to operate within its working hour control policy.
- Please send us a commitment letter, and supporting documentation for all points listed above.

### Action Plan no 3.

#### Description

3. The facility must identify the manager/team who/that will: a. Develop and review (annually) policies are in place for managing all working hour, overtime, and leave records in both normal and exceptional circumstances that follow both the FLA and Under Armour Codes of Conduct, and all local legal requirements.; b. Keep accurate time records is maintained by employers, including overtime, breaks, and leave; c. Record all time worked by all workers, regardless of wage system, by using time cards or other mechanical or electronic recording systems;The facility does not maintain multiple time-keeping systems and/or records; d. Ensure that time records maintained are authentic and accurate; e. If not provided by law, ensure that employers provide protection to workers who allege existence of multiple time-keeping systems or falsification of work time records.

This manager/team must also: i. Facilitate communication with and active participation from workers on the development of the policies and procedures, and develop a mechanism for workers to express

## FINDING NO.4

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

#### Finding Explanation

1. 5 of 36 fire extinguishers observed during the walkthrough were not marked or sequentially listed. [HSE.6.1]

2. 4 of 36 fire extinguishers observed during the walkthrough did not have the instruction of use in the local language (Creole). [HSE.6.1]

#### Local Law or Code Requirement

Labor Code, Article 439 section 1; FLA Workplace Code (Health, Safety and Environment Benchmark HSE.6.1)

#### Recommendations for Immediate Action

1. Follow the Health and Safety written procedures and regulations to properly mark fire extinguishers in facility.

2. Refresh training on of FLA Workplace EHS Code and Fire equipment in facility. Ensure that all fire extinguishers in facility are adequately listed.

### COMPANY ACTION PLANS

#### Action Plan no 1.

#### Description

"Immediate Action Required:

1. Follow the Health and Safety written procedures and regulations to properly mark fire extinguishers in facility.

2. Refresh training on of FLA Workplace EHS Code and Fire equipment in facility. Ensure that all fire extinguishers in facility are

adequately listed."

## Action Plan no 2.

### Description

"Sustainable Improvement Required:

1. The factory must identify the person/team who will:

- a) Immediately schedule for thorough assessment of all factory buildings and layout to ensure safety ingress and egress for people in the premises during normal and emergency situation;
- b) THE FACTORY MUST IDENTIFY THE TEAM OF PERSONNEL (IDENTIFY THE TEAM OF WORKERS AND MANAGERS) WHO WILL DRAFT AND EFFECTIVELY IMPLEMENT WRITTEN PROCEDURES CONTROLS (SUCH AS FREQUENT DAILY DOCUMENTED INSPECTIONS, WITH IDENTIFIED PERSONNEL (WORKERS (WHO ARE CONFIDENTIALLY ELECTED BY THEIR CO-WORKERS, AND WHO ALSO MEMBERS OF THE FACTORY'S FIRE AND HEALTH AND SAFETY COMMITTEES) AND MANAGERS ON EACH SHIFT AND IN EACH WORK AREA WHO ARE ASSIGNED THIS RESPONSIBILITY);
- c) TO ENSURE AT ALL TIME TO KEEP CLEAR OF OBSTRUCTION OF BUILDING INGRESS AND EGRESS LAYOUT PLAN SUCH AS: i) EVACUATION PASSAGES; ii) AISLES; iii) EMERGENCY EXITS and iv) STAIRS AND STAIRCASE LOBBIES ARE TO BE KEPT CLEAR FROM OBSTRUCTION BY TROLLEYS, SEMI COMPLETED PRODUCTS, BINS, AND ANY FORM OF OBJECT INCLUDING BY IMPLEMENTING SYSTEMS AND CONTROLS SUCH AS FREQUENT DAILY DOCUMENTED INSPECTIONS IN ORDER TO COMPLY WITH APPLICABLE LAWS;
- d) TO ENSURE AT ALL TIME THAT THE SEATING ARRANGEMENT OF WORKERS AT SEWING LINES ARE ALLOCATED IN THE BOUNDARY AND KEEP CLEAR OF: i) EVACUATION PASSAGES; ii) AISLES AND c) EXITS.
- e) TO ENSURE THAT FROM NOW ON NO EMERGENCY EXITS, FIRE HYDRANTS, FIRE EXTINGUISHERS, FIRE-FIGHTING AND EMERGENCY EQUIPMENT, ELECTRICITY CONNECTION BOXES/ELECTRICAL PANELS AND THE AREAS IN FRONT OF ALL SUCH EXITS, AISLES, BOXES PANELS AND EQUIPMENT ARE BLOCKED (EVEN PARTIALLY) INCLUDING BY IMPLEMENTING SYSTEMS AND CONTROLS SUCH AS FREQUENT DAILY DOCUMENTED INSPECTIONS IN ORDER TO COMPLY WITH APPLICABLE LAWS (see above example);
- f) ensure that from now on and at all times all EMERGENCY EXITS must be unobstructed with any form of object and production materials;
- g) ensure there must be written directives and procedures ensuring continuous control and availability of access to at least two marked, clear, lighted, unobstructed, unlocked emergency evacuation routes from every workstation to, through and outside of the building to an external posted area of safety outside of the building (External Assembly Point (EAP) should be established; Please send us photos of the EAP and a copy of the updated policies and procedures.

2. a) all workers must receive fire safety training as it applies to their work location and their dormitory; b) all workers are expected to receive the fire safety training that must include: i) The essential knowledge, skills and attitudes that enable them to perform their duties in a manner that does not represent fire safety hazards; ii) instructions on emergency evacuation procedures and a hardcopy must be given as part of the worker's initial orientation and regularly thereafter; c) instruction on location and use of alarm pull boxes or other alarm activation methods; d) the use of portable fire extinguishers in the effort to extinguish small, newly started fires and the actual use of such equipment and e) clear communication of expectation of trained workers that in the event of an actual fire that they must only respond to: i) Relatively small, early stage fires and ii) if they have any doubt, then they must evacuate

Please send to us copies of supportive documentation record showing workers attended in fire-fighting training, including copies of certificates. "

## FINDING NO.5

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Grievance System

### Finding Explanation

During the factory tour, it was noted that all three of the suggestion boxes were not equipped with paper and pencil for workers to write their complaints/suggestions. [ER.25.3].

### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.25.3

## COMPANY ACTION PLANS

### Action Plan no 1.

### Description



#### Immediate Action Required:

Factory shall identify the manager/team whom/that will be responsible for ensuring: a) a refresher training on grievance/disciplinary policy and procedures to all workers; b) review the policy and procedure periodically and/or as needed, and c) consult with Better Work Haiti program and seek assistance in enhancing or improving the factory's grievance systems. Please send to us supporting documentation.

#### Action Plan no 2.

##### Description

##### "Sustainable Improvement Required:

The factory must identify the person who will develop and effectively implement comprehensive written grievance: a) policies and b) procedures. The grievance procedures must include: a) a means by which its workers can directly and confidentially report grievances to top management/human resource personnel (for example, by sending text messages to a dedicated H.R. Supervisor's telephone number; an email message to a dedicated H.R. Department email address; making telephone calls to a dedicated H.R. Department hotline or telephone number) without the knowledge of or involvement by supervisors and free from reprisal, retribution and retaliation, and b) a grievance register (see attached example), in substance reflecting the date and nature of the grievance and the action taken, among other things. Please also confirm that top management will regularly and confidentially meet with employees without supervisors being involved or present. The factory should conduct documented training, and with materials, in the official local language and any other applicable dialects and languages, with its managers, Human Resources personnel and workers about each of the policies and procedures. The factory should document actions it subsequently takes in accordance with, and pursuant to these policies and procedures in any affected managers' and workers' on site personnel files. Please send us supporting documentation for communication, such as attendance sheets, training material, photos of notices posted throughout the factory, etc."

## FINDING NO.6

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

##### Finding Explanation

1. Due to the lack of social security services and infrastructure in the region, the factory does not calculate and/or pay the % of Insurance Office of National Old-age Contribution (AKA: "ONA") required by law. The factory calculation of the National age-insurance is based on the minimum wage instead of the actual wages of each worker. The employer pays 4% of the workers' salaries to ONA instead of the legally required 6%. [ER.22.1].

2. Due to the lack of social security medical services and infrastructure in the region, the factory has enrolled workers in the social security scheme, Insurance Office of Work Accident, Sickness and Maternity (OFATMA); hence, the factory does not deduct or pay social security contributions, as legally required. Based on local law, the rate of quotation for maternity leave and health insurance is fixed at 6% of the base salary of the employees. The employer should pay 3% of this amount and the workers should pay 3%. Based on 2018 documentation reviewed, the rate of quotation for maternity leave and health insurance is fixed at 4% of the worker's salary and the employee pays the remaining 2%. [ER.22.1. C.1, C.10]

3. Based on the documentation review, the factory calculates the mandatory insurance provision (AKA: "OFATMA") based on the minimum wage, as some production workers earn above the minimum wage. [ER.22.1, C.1, C.10].

##### Local Law or Code Requirement

Labor Code, Chapter VI, Annex VIII, Articles 27, 32, and 200, Section D; Annex VII, Decree Jean Claude Duvalier Decreed Article 1, Section (D) ; FLA Workplace Code (Employment Relationship Benchmark ER.22.1; Compensation Benchmarks C.1 and C.10).

##### Recommendations for Immediate Action

1. Provide all workers with all of the social insurance benefits in accordance with law and engage with the ONA, relevant Haitian governmental institutions, and other related stakeholders such as the International Labor Organization's (ILO) Better Work Program to work toward potential solutions that address the lack of the National Age-Insurance coverage affecting many Haitian workers in the region.

2. Provide all workers with all of the social insurance benefits in accordance with law as well as work with OFATMA, relevant Haitian governmental institutions, and other related stakeholders such as the International Labor Organization's (ILO) Better Work Program in order to work toward potential solutions that address the lack of insurance coverage.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

"Immediate Action Required:

1. Provide all workers with all of the social insurance benefits in accordance with local laws, regulations, and engage with the ONA, relevant Haitian governmental institutions, and other related stakeholders such as the International Labor Organization's (ILO) Better Work Program to work toward potential solutions that address the lack of the National Age-Insurance coverage affecting many Haitian workers in the region.

2. Provide all workers with all of the social insurance benefits in accordance with law as well as work with OFATMA, relevant Haitian governmental institutions, and other related stakeholders such as the International Labor Organization's (ILO) Better Work Program in order to work toward potential solutions that address the lack of insurance coverage."

### Action Plan no 2.

#### Description

"Sustainable Improvement Required:

The factory must identify the manager/team who/that will:

- a) Provide all workers with all of the social insurance benefits to which they are entitled legally, in particular the social security medical service contribution;
- b) Ensure that the factory properly calculates its payments/remittances to the government using the appropriate wage category, if, and as legally, required;
- c) Maintain on file at the factory records of related payments to the appropriate authorities;
- d) Conduct documented educational meetings with workers about the insurance and the portability of related payments have been conducted.
- e) In collaboration with other businesses in the area, business associations, if any, NGOs, the factory is requested to formally engage with the local government/Social Security officials to request, in writing, their support and cooperation in making medical services/facilities available, nearby, for factory workers to use.

Please submit supportive documentation to us that establishes: I) the timetable according to which 100% of the workforce is covered by/enrolled in all insurance types and all related benefits will be provided to 100% of the workforce and II) related remittances by the factory and workers are correctly calculated and paid to the government by the factory. "