



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Kathmandu
COUNTRY: Vietnam
ASSESSMENT DATE: 12/30/16
ASSESSOR: FLA China
PRODUCTS: Apparel
NUMBER OF WORKERS: 500

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. Despite several reminders, the factory did not share any of the requested documents in advance for offline review.
2. The factory uses unidentified home work. However, it did not provide any documentation on how they manage home workers as they claim they do not use any home workers. Dormitory for foreigners could not be accessed during the assessment.
3. Only two months (instead of twelve months) of time records and payrolls could be reviewed on the first day of the assessment. On the second day of the assessment, the factory took away all the time records, payrolls, personnel profiles and any documents related to subcontractors and the supplier. Payroll review could not be completed as the payrolls could not be accessed on the second day of assessment.
4. The compensation data was not provided, as information related to wage and compensation is confidential as per the factory management.
5. Payrolls and time records of temporary workers, home workers, in-house subcontractors were not provided for review.
6. The documents related to social insurance contribution, benefits such as sick leave, maternity leaves, annual leaves, wedding and marital leave were not provided for review.
7. Disciplinary records were not provided for review.
8. Documents of foreigners working in the factory, such as work permits, labor contracts, visa, etc. were not provided for review.

Local Law or Code Requirement

Circular No. 47/2015/TT-BLDTBXH on Guidelines for Labor Contracts, Labor Discipline and Material Responsibility Prescribed in Decree No. 05/2015/ND-CP dated January 12, 2015 of the Government Providing Guidance on the Labor Code (2015), Art. 12; Circular.No.23/2014/TT-BLDTBXH, Article 7;

Decree No.11/2016/NĐ-CP, Art.7, Art.8 and Art.9; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.2 ER.23, and ER.27; Hours of Work Benchmark HOW.1; Compensation Benchmarks C.1, C.14, and C.15)

Recommendations for Immediate Action

- 1.Provide assessors with unrestricted access to accurate and complete records for compliance verification.
- 2.Ensure all the disciplinary records are in place and provide assessors with full access.
- 3.Ensure all the documents related to foreign employees are in place and provided to assessors for compliance verification.

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. There are no policies or procedures on the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Grievance Systems, Environmental Protection, Termination & Retrenchment, and Industrial Relations.
2. There are no procedures established for Workplace Conduct & Discipline. There is no procedure for workers to appeal disciplinary action.
3. Management does not sign off (personal accountability) on any of the factory's policies and procedures.
4. The factory does not regularly review policies and procedures. Some have not been reviewed since they were first established in 2013. Also, the procedure for management review conducted on all policies and procedures has not yet been established.
5. Written job description is not prepared when personnel need to be hired.
6. Procedures for regulating workplace conduct and disciplinary measures are not established. The factory has established its Policy to be applied in the factory.

Local Law or Code Requirement

Law No. 55/2014/QH13, Art.109; Art.110, Decree No: 05/2015/NĐ-CP, Art. 12, Art.15; FLA Workplace Code (Employment Relationship Benchmarks ER.1; ER.19, ER.23, ER.25, ER.27, ER.28, ER.29, ER.30, ER.31, and ER.32; Harassment or Abuse Benchmark H/A.1)

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Responsibility & Accountability (Macro)

Finding Explanation

- 1.The factory has not specifically assigned responsibility or created job descriptions for the persons handling Compensation, Hours of Work, Health & Safety, Environmental Protection, Industrial Relations or Grievance System.
- 2.No one has been formally assigned with ultimate responsibility of the factory

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1)

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. There are no standard operation procedures (SOP) for any machines or equipment, including fire equipment.
2. There are no procedures on how to maintain and inspect the fire equipment and to ensure all fire equipment, fire exits and exit paths are free of obstacles for safe evacuation.
3. There are no procedures on emergency response, with steps on how to ensure that all personnel, visitors, contractors, service providers and special categories of workers safely evacuated.
4. There are no measures to protect the reproductive health of employees through minimizing exposure to workplace hazards or procedure on how workers can raise health and safety concerns with protection against retaliation for those who raise such concerns.
5. There is lockout-tagout procedure.
6. There is no appropriate system to respond to any unexpected environmental emergency such as chemical spills or gas leak.

Local Law or Code Requirement

Labor Code of Vietnam, Art. 138; Law No. 84/2015/QH13, Art. 16, Art.13, Art.15; Decree No. 79/2014/NĐ-CP, Art.7; Art.21; FLA Workplace Code (Employment Relationship Benchmark ER.31; Nondiscrimination Benchmark ND.8; Health, Safety & Environment Benchmarks HSE.1, HSE.5, HSE.6, HSE.12, and HSE.14)

Recommendations for Immediate Action

1. Establish SOPs for machines, equipment, and fire equipment and post next to equipment.
2. Establish procedures on how to maintain and inspect the fire equipment and ensure all fire equipment, fire exits, and exit paths are accessible and free of obstacles for safe evacuation.
3. Establish emergency response procedure with steps on how to ensure that all personnel, visitors, contractors, service providers and

special categories of workers safely evacuated from the factory.

4. Establish a lockout-tagout procedure.

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

The factory's policies and regulations, collective bargaining agreement, and wage scale are not posted on the work floor or publicized in the factory.

Local Law or Code Requirement

Decree No. 60/2013/ND-CP on Detailing Clause 3 Article 63 of the Labor Code on Implementing the Democracy Regulation at Grassroots at the Working Places (2013), Art. 6; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.16 and ER.25; Compensation Benchmarks C.1 and C.17)

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory does not provide specific or ongoing training to workers or supervisors on the any of the Employment Functions.
2. No orientation training program is provided to workers.
3. A copy of the workplace rules is not provided to workers.
4. The factory has not conducted training on Health & Safety for any workers or management as per the Circular 27/2013.
5. As the factory does not provide training to workers on Health & Safety, there is also no training for chemical safety, Personal Protective Equipment (PPE), or maintenance safety for maintenance workers.

Local Law or Code Requirement

Circular No. 04/2014/TT-BLDTBXH on Guiding Implementation of Regulations on Personal Protective Equipment (2014), Art. 6; Circular No. 27/2013/TT-BLDTBXH on Providing for Occupational Safety and Hygiene Training (2013), Art. 4; Environment law No.55/2014/QH13, Art 108.1; Labor Code No. 10/2012/QH13 (2013), Art. 139, Art.150; Law No. 06/2007/QH12 on Chemicals (2007), Art. 30; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, ER.16 ER.17, ER.25, ER.28, and ER.31; Health, Safety & Environmental Benchmarks HSE.5, HSE.8, HSE.9, and HSE.14)

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

- 1.Overtime is not voluntary. Workers have to ask for approval from the line supervisor to not work overtime. If it is not approved, they must work overtime, especially those working in Quality Control, the assembly lines, or packing section as their tasks can create bottlenecks in the factory.
- 2.All emergency exits at the back of the production building are locked from the outside 15 minutes before the lunch to prevent workers from accessing the toilets 15 minutes before the lunch break.
- 3.Security guards do not allow workers to leave the factory without written approval from management.

Local Law or Code Requirement

Labor Code No. 10/2012/QH13 (2013), Art. 106; Labor Code No. 10/2012/QH13 (2013), Art. 8(3); FLA Workplace Code (Hours of Work Benchmark HOW.8; Forced Labor Benchmark F.4, and F.6; Harassment or Abuse Benchmarks H/A.3 and H/A.7); Health Safety & Environment Benchmark HSE.21)

Recommendations for Immediate Action

- 1.Ensure overtime is voluntary.
- 2.Cease undue restrictions on toilet use in terms of time and frequency and ensure exits are not locked during the working hours for safe evacuation.

FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. Personnel profiles are not maintained for temporary workers or home workers. For temporary workers, only copy of ID cards are maintained.
2. Age documents are not obtained and maintained for home workers.
3. Recruitment is not centrally managed by the office or HR department but by the line leaders, which poses a risk of child labor or human rights' violations.
4. Training period of two months is applied for all workers including those handling the simple jobs, while the detail training program is not established.
5. Employment commitment is not included in the training contract signed with workers.
6. The content of labor contract is still based on the obsolete Circular 21/2003 instead of Decree No.05/2015. Also, the contract defines only nine days of public holidays instead of ten days.
7. The personnel profiles of young workers are not filed separately.
8. The factory signed a temporary contract with workers who handle permanent work.
9. The centralized worker filing system is not set-up.
10. The disciplinary actions are not maintained in workers' personnel files

Local Law or Code Requirement

Circular. No.23/2014/TT-BLDTBXH, Article 7; Law No. 74/2014/QH13, Art. 39; Art.34; Art.35; Decree No.05/2015, Art. 4; Labor Code No. 10/2012/QH13 (2013), Art. 8(4), Art. 22, Art. 115; Art. 162(2); FLA Workplace Code (Employment Relationship Benchmarks; ER.1, ER.2, ER.4, ER.9, ER.10, and ER.11; Child Labor Benchmarks CL.1, CL.4, and CL.8)

Recommendations for Immediate Action

1. Ensure that skill levels of new workers are properly evaluated and aligned with the worker training period as prescribed.
2. Ensure consistency and discipline in the Recruitment & Hiring process.
3. Complete and properly maintain personnel files, including labor contract and age documents.
4. Establish the training program.
5. Include an employment commitment in the training contract signed with workers.
6. Base the content of labor contract on the latest legal requirements.
7. Ensure terms related to holidays on the labor contracts meet the legal requirements.
8. Discontinue signing temporary contracts with workers who handle permanent work.

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. A tattoo check is applied as a condition for hiring male workers.
2. Gender (female) and age (30 to 38) are required as a hiring condition for manager of the Import & Export Department.
3. The factory does not provide packing workers with a responsible allowance which is given to workers who produce and handle goods at a high quality, although it is provided to the rest of workers.
4. Young workers only sign temporary contracts, and are therefore not entitled to compulsory insurance or annual leave. They can sign the definite term contract with the factory when they are 18 years of age.
5. There is no proper system for tracking the location of juvenile workers within the factory.

Local Law or Code Requirement

Labor Code No. 10/2012/QH13 (2013), Art. 5(1); Law No. 38/2013/QH13 on EMPLOYMENT (2013), Art. 9; Decree No. 49/2013/ND-CP on Detailing the Implementation of a Number of Articles of the Labor Code on Wages (2013), Art. 7; Labor Code No. 10/2012/QH13 (2013), Art. 34; FLA Workplace Code (Employment Relationship Benchmarks ER.3, ER.11, and ER.13; Nondiscrimination Benchmarks ND.1, ND.2, and ND.3; Child Labor Benchmarks C.1, CL.4, and CL.6)

Recommendations for Immediate Action

1. Base recruitment and hiring only on qualification of workers.
2. Ensure workers receive all benefits to which they are entitled.

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. Copy of the CBA is not provided to workers. Management does not comply with the CBA.
2. The factory has a trade union established by 2015 under the Vietnam General Confederation of Labor (VGCL) that was established by 1990. However, there is no proof that workers nominated their representatives democratically in the Labor Union Election. Also, the Labor Union Chairman is the Import-Export Manager of the factory.
3. VND 10,000 (USD 0.44) was deducted from workers' monthly wages for Labor Union fees as shown on the provided payrolls, but without proof of workers' authorizations.
4. The factory provides a meeting room for the union upon request, but there is no designated office with the necessary equipment for the union to conduct daily meetings or for the union representatives to perform their functions.
5. FLA Comment: Vietnam has not ratified ILO Conventions 87 or 98. Under Vietnamese law, all unions are required to affiliate with the single trade union, the Vietnam General Confederation of Labor (VGCL), which is affiliated with the Communist Party. With respect to such union monopolies, the ILO Committee on Freedom of Association has stated that "the rights of workers to establish organizations of their own choosing implies . . . the effective possibility of forming . . . [trade unions] independent both of those which exist already and of any political party." Vietnam's legal framework is therefore not compatible with the ILO Principles on Freedom of Association and, as such, all factories in Vietnam fail to comply with the FLA Code standard on Freedom of Association.

Local Law or Code Requirement

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FLA Workplace Code (Employment Relationship Benchmarks ER.16, ER.25, ER. 26; Freedom of Association Benchmarks FOA.1, FOA.2, FOA.11, FOA.15, FOA.19, FOA.24; Compensation C.11)

FINDING NO.11

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. There is fear of retrenchment due to potential relocation of the factory to another province. This has not been communicated to workers or the office staff.
2. Workers are automatically members of the Labor Union, without consent.
3. The factory has not conducted a dialogue meeting and laborer conference.
4. A strike happened in November 2014 due to lack of minimum wage payments to piece rate workers, and no payment paid for downtime. Strikes occur every year due to the low piece-rate wage which does not meet the minimum wage as the factory keeps the hard production processes for workers to do in the factory, while the simple jobs are sent outside for home workers. However, there are no records maintained about the investigations and solutions of those strikes.
5. The company fired workers who led the wild cat strikes as reported by workers; there are no records maintained for firing the workers who led the wild cat strikes.
6. There are no labor union representatives from the production workers, only management and office staff.
7. There are no Labor Union activities conducted in the factory although the Labor Union is established. Labor Union Representatives are not provided with extra time for handling the Labor Union activities.
8. The labor union fund is also kept by the factory, not by the Labor Union.
9. The factory has not submitted Labor Union fees or funds for other activities to the Federal Labor Union, therefore the factory is not able to conduct any union related activities.

10. Previous Labor Union chairman resigned. However, there was no documentation regarding his resignation or termination.

Local Law or Code Requirement

Law No. 10/2012/QH13, Art. 5(1), Art. 44, Art.46, Art. 65; Law No. 12/2012/QH13, Art. 6; Art. 9; Art. 10, Art. 22, Art. 24; Art. 25; Art. 26; Decree No. 60/2013/ND-CP on Detailing Clause 3 Article 63 of the Labor Code on Implementing the Democracy Regulation at Grassroots at the Working Places (2013), Art. 14;

FLA Workplace Code (Employment Relationship Benchmarks ER.25, ER.16, ER. 26; Nondiscrimination Benchmarks ND.1; Compensation Benchmark C.1; Freedom of Association Benchmarks FOA.2, FOA.11, FOA.15, FOA.19, and FOA.22)

Recommendations for Immediate Action

1. Potential for retrenchment should be transparently communicated to all workers.
2. Obtain consent from workers for joining the Labor Union.
3. Conduct regular dialogue meeting and laborer conference between management and workers.
4. Maintain all records about the strikes such as investigations, settlement meeting minutes and make available to all workers.
5. Respect workers' right to strike and ensure that they can legally strike without retaliation.
6. Respect the rights of workers to self-nominate and nominate their representatives to the labor union.
7. Ensure that the funds for the labor union is maintained and kept by the Labor Union so that it can be used for Labor Union activities.
8. Submit Labor Union fees and funds for activities to the Labor Union Federal, as legally required.
9. Ensure that the person in the Labor Union Chairman position is not terminated, dismissed, forced to quit or forced to transfer jobs.

FINDING NO.12

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

1. Disputes or grievances were not solved properly. Workers confirmed that they raised the same concerns several times related to compensation and poor meals. However, the factory did not care and either did not properly respond to the workers' grievances or they responded too slowly. Workers give their grievances to their supervisors but are not sure if their grievances reach the right person. Their grievances have not yet been addressed.
2. The factory does not track or monitor the grievances received.
3. The only suggestion box was fully blocked by materials in the sponge stuffing area, and therefore workers are not aware of its presence as per their testimonials.
4. The grievance procedure does not mention the use of the suggestion box. Also, the grievance procedure does not allow a direct settlement of the grievance by the worker and the immediate supervisor. There is no management review on the grievance settlement.
5. The Grievance System procedure is not posted next to the suggestion box or on the factory bulletin board.

Local Law or Code Requirement

Labor Code No. 10/2012/QH13 (2013), Art. 63, Art. 64, Art.68, Art. 71; FLA Workplace Code (Employment Relationship Benchmarks ER.25 and ER.26)

Recommendations for Immediate Action

Ensure grievance mechanism effectively addresses workers' concerns.

FINDING NO.13

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

A suspension of wage increases is one of the disciplinary practices mentioned in the company regulations.

Local Law or Code Requirement

FLA Workplace Code (Harassment or Abuse Benchmark H/A.2)

Recommendations for Immediate Action

Cease the use of any monetary disciplinary practices.

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. Downtime is paid at 70% instead of 100%, and therefore the factory is not able to guarantee a minimum wage. Additionally, workers had to sign an application form for management approval, requesting for payment for their downtime, otherwise they would not be paid for downtime.
2. The wage offered to the new workers in the training period, working in the hard or hazardous working condition, does not include the hazardous allowance. New workers working in the hazardous condition are not offered the minimum wage (workers working in normal conditions are offered the minimum wage).
3. The factory does not provide the minimum wage to about 30% of piece rate workers as no supplemental allowances are provided to meet the minimum wage.
4. The factory does not increase worker's wages based on their skill levels as per the approved wage scale.
5. Overtime compensation is based on the hourly rate instead of piece rate and the overtime break is not paid sufficiently, it is paid at VND 14,000 (USD 0.62) per hour which does not meet the overtime premium.
6. The wage allowances are not included in overtime wage calculations.
7. Fixed allowance is not included in the calculation for social insurance contribution.
8. Payout for the terminated workers or those who resigned were not paid within seven days, but on the 22nd of the following month.
9. The factory does not include the days which workers did not have unemployment insurance as part of their severance allowance.
10. The night overtime was not paid sufficiently for workers in December 2015. The factory paid for night overtime at 200% instead of 210%.
11. Workers did not sign on the payroll when receiving their wages.
12. Workers cannot choose when to use their annual leaves. The factory arranges workers' annual leaves during the low season and workers do not know how many annual leave days they are entitled.
13. The documents related to social insurance contributions and benefits (e.g. sick leave, maternity leave, annual leave, wedding and marriage leave) were not provided for review. It could not be verified if these employment practices exist in the factory.
14. The factory does not provide in-kind allowance to workers who work in working conditions that do not meet legal health and safety standards. This allowance should be paid to workers until the working area is fixed and fulfills legal requirements.
15. Payments for insurance and annual leave are not paid into the wages of workers in training, in their probationary period, or to temporary workers.
16. The factory does not provide sufficient annual leave to elderly workers; they do not receive the additional annual leave for every five years of service to which they are entitled.
17. The additional half-day's wages is not paid to workers who participate in the firefighting training.
18. Workers are not informed, orally or in writing, in a language they understand about overtime wage rates prior to undertaking overtime.

Local Law or Code Requirement

Labor Code No. 10/2012/QH13 (2013), Art. 98, Art. 111, Art. 186, Art. 116, Art. 157; Art. 111, Art. 112; Decree No. 05/2015/NĐ-CP, Art. 25, Art.21, Art.14; Circular No. 59/2015/TT-BLĐTBXH, Art.30, Art. 3; Decree No. 49/2013/ND-CP on Detailing the Implementation of a Number of Articles of the Labor Code on Wages (2013), Art. 7; Decree No. 122/2015/ND-CP on Regulating Region-Based Minimum Wages for Employees Working for Companies, Cooperative Unions, Cooperatives, Cooperative Groups, Farms, Households, Individuals and Organizations Hiring Employees under Labor Contracts (2015), Art. 3; Decree No. 79/2014/ND-CP on Guidelines For The Law On Fire Safety And Firefighting And The Law On Amendments To The Law On Fire Safety And Firefighting (2014), Art. 35 (4), Art. 17; FLA Workplace Code (Employment Relationship, Hours of Work, Compensation Benchmarks ER.18, ER.19, ER.22, ER.28; Hours of Work Benchmarks HOW.11, HOW.12, and HOW.19, Compensation Benchmarks C.2, C.3, C.4, C.5, C.6, C.7, C.8, C.14 , C.10 , C.11, C.14, C.17 and C.18)

Recommendations for Immediate Action

1. Pay workers at least the minimum wage, even for downtime. Workers working in hard and hazardous working conditions should be paid 5% more than those working in the normal condition.
2. Calculate correctly overtime pay, including wage allowances.
3. Ensure all workers receive all benefits to which they are legally entitled.
4. The wages for each skill and work level should increase as per the approved wage scale.
5. Include the fixed allowances in the calculation for social insurance contributions.
6. Issue severance pay to terminated and resigned workers within seven days of the end of employment and ensure severance payouts are calculated correctly.
7. Obtain written confirmation from workers that they have received their wages.

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

- 1.The factory uses home work, but the factory did not provide any documents to show that this home working exists. Homeworkers came into the factory the day of the assessment to rework on some pieces. Factory management claimed that they did not know the home workers and denied using any home workers.
- 2.Sewing workers stated that they do not have much work to do in the factory so that they could not work overtime as the factory gives most of the work to home workers. Sewing workers requests work from home workers at a lower piece rate.

Local Law or Code Requirement

Labor Code No. 10/2012/QH13 (2013), Art. 185; FLA Workplace Code (Employment Relationship, Hours of Work, Compensation Benchmarks ER.2; ER.23; Hours of Work Benchmark HOW.1; Compensation Benchmarks C.1, C.2, and C.7)

Recommendations for Immediate Action

Ensure home working arrangements are documented and closely monitored.

FINDING NO.16

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The elderly workers work excessive regular working hours and work overtime as well.
2. The break between shifts is not sufficiently provided to assembly workers in December 2015; they received only 30 minutes of break.
3. There was excessive daily overtime for about 17 workers in assembly lines (13 hours) in December 2015; excessive weekly overtime in November 2016 and December 2015 for about 30% of workers (mostly in the assembly lines, QC, and packing section). Weekly overtime is up to 36.5 hours or weekly working time is up to 74.5hours in December 2015; weekly overtime is up to 23 hours or weekly working time is up to 71 hours in November 2016.Monthly overtime is 135 hours (December 2015) and 37.5 in November 2016. Overtime of other months were not provided for review.
4. Seventh day of rest is not guaranteed for about 30% workers. In December 2015, workers worked 18 continuous days; in November 2016, workers worked 13 continuous days.
5. Young workers work excessive regular working hours (eight hours a day, 48 hours a week, instead of 40 hours a week) in addition to working overtime.
6. The swipe card system used to record working time is not centrally calibrated. Times are different for each machine. Also, the time records of the maintenance staff does not include time-out.
7. Paid menstruation break is not provided to female workers.
8. The factory does not keep records to identify pregnant workers to ensure that they work shorter regular hours, to which they are entitled. Therefore, it could not be verified if pregnant workers received shorter working hours in time.
9. The factory does not identify pregnant women, lactating women, or workers under age 18 to ensure they receive legal protection concerning working hours.
10. The finger print system for time records is not used for temporary workers and home workers; only manual time sheets are utilized without reflecting the actual time-in and time-out.

Local Law or Code Requirement

Labor Code No. 10/2012/QH13 (2013), Art. 166, Art. 109, Art. 106, Art. 110, Art. 163, Art. 155; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.2, and ER.14; Hours of Work Benchmarks HOW.1, HOW.2; HOW.3, and HOW.4; Child Labor Benchmark CL.4)

Recommendations for Immediate Action

1. Use a reliable time-recording system to record the working hours of all workers including the temporary workers. Grant assessors access to working hour records for compliance verification.
2. Ensure working hours do not exceed 60 hours per week, including overtime.
3. Provide workers with one day (24-consecutive hours) of rest per seven-day period.
4. Provide adequate breaks for workers: 12 hours of break between shifts.
5. Ensure the working hours of pregnant, elderly, and young workers meet the legal limit.

FINDING NO.17

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Accidents are not investigated and are not reported to the Labor Department.
2. The operations certificate is not obtained for medical staff.
3. Periodic Health check for workers working in hard and hazardous conditions as well as young and elderly workers is conducted once per year instead of twice. Additionally, occupational health checkups and recruitment health checkup are not conducted. Obstetrics and gynecology checks are not conducted for female workers.
4. Scissors and knives are not tightened to work stations to protect the workers from dropping sharp tools on their feet.
5. Pallets are kept vertically.
6. The factory has not designated emergency assembly areas.
7. The factory has not established a Health & Safety committee.
8. The firefighting team does not have an assigned leader or vice leader.
9. There is poor noise management in the preparation area and sewing area; noise level reaches up to 90dbA.
10. From the working condition inspection records, there are two samples of noise levels and eight samples of lighting levels that do not meet the required standards.
11. There is an insufficient number of male and female toilets. There are only four male toilets for 85 males and 11 toilets for 279 females.
12. There is no toilet paper or no soap provided in the toilets.
13. One door (out of four) of the male toilets is broken.
14. There are only three faucets provided for all 349 workers.
15. The factory does not have a bathroom, menstruation room, or a room to pump and store breastmilk.
16. The factory has not conducted a Health & Safety risk assessment.
17. The factory does not provide any guidance documents concerning Health & Safety to external contractors or service providers.
18. Pregnant workers and young workers work with hazardous chemicals in the sponge stuffing area and also work near these areas, this is a health risk.
19. The exhaust fans in the strap heat cutting section are not adequate.

Local Law or Code Requirement

Labor Code No. 10/2012/QH13 (2013), Art. 142; Art. 152; Art.138; Art.160; Art.162; Law No. 84/2015/QH13 on Occupational Safety and Hygiene (2015), Art. 65; Art.72; Art. 74; Art.75; Art.16; Art.77; Art.13; Circular No. 41/2011/TT-BYT, Article 2; Decree No. 79/2014/ND-CP on Guidelines For The Law On Fire Safety And Firefighting And The Law On Amendments To The Law On Fire Safety And Firefighting (2014), Art. 7; Circular No.: 66/2014/TT-BCA, Art.15; Circular NO.19/2016/TT-BYT, Annex.1; Law.85/2015/NĐ-CP, Art.7; FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety & Environment Benchmarks HSE.1, HSE.2, HSE.3, HSE.6, HSE.5, HSE.11, HSE.12, HSE.13, HSE.19, HSE.20; Child Labor Benchmark CL.5)

Recommendations for Immediate Action

1. Investigate accidents and report to the Labor Department.
2. Obtain the operations certificate for medical staff.
3. Provide the periodic health check for workers working in hard and hazardous conditions and for young and elderly workers every six months. Provide occupational health checkup and recruitment health check for workers. Provide female workers with obstetrics and gynecology checks.
4. Train workers on the SOPs. Tighten sharp tools to the work stations; store pallets horizontally.
5. Designate an emergency assembly area and communicate to workers.
6. Establish a Health & Safety committee.
7. Designate a leader and vice leader of the firefighting team with clear roles and responsibilities.
8. Monitor and maintain proper working conditions for workers (including noise and lighting levels) to ensure they are within the legal limits.
9. Provide workers with sufficient, clean, and sanitized toilets, faucets, and bathrooms. Ensure the privacy of toilets. Provide a bathroom, menstruation room, and lactation room as legally required.
10. Conduct a Health & Safety risk assessment.
11. Provide Health & Safety guidance to external contractors and/or service providers.
12. Ensure young workers and pregnant workers are not given work with heavy or hazardous working conditions.
13. Maintain exhaust fans in the strap heat cutting section to ensure all air emissions are expelled.

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Machine operating instructions and safety warning signs have not been created or posted on the work floor or at the laser cutting machine.
2. There are missing eye guards on all bartack and computerized sewing machines. There are missing upper and lower pulley guards and machine covers on all sewing machines and button snapping machines. There are no needle guards equipped on the button snapping machines.
3. The grinding machines are not equipped with eye shields, tongue guard, or tool rest.
4. Fans are not covered in the preparation area or in the maintenance room.

Local Law or Code Requirement

Labor Code No. 10/2012/QH13 (2013), Art.138; Law No. 84/2015/QH13 on Occupational Safety and Hygiene (2015), Art. 15; Art.16; FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety and Environment Benchmarks HSE.14)

Recommendations for Immediate Action

Ensure machines and equipment has appropriate machines and safety guards and safe operational procedure attached.

FINDING NO.19

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. None of the machines are grounded.
2. Lockout-tagout procedure is not used during maintenance.
3. Wires are connected using repair tape.
4. All control panels are missing the inner cover as well as labels on individual switches to identify the source.
5. At least two electric sockets have signs of overload (signs of burning) in the production buildings; these were not fixed or removed immediately but are still used by the workers.

Local Law or Code Requirement

Labor Code No. 10/2012/QH13 (2013), Art.138; Law No. 84/2015/QH13 on Occupational Safety and Hygiene (2015), Art. 15; Art.16; Decree No.14/2014/NĐ-CP, Art.3; Art. 5; FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety and Environment Benchmarks HSE.13)

Recommendations for Immediate Action

1. Properly ground all machines and equipment.
2. Cease the use of overloaded sockets and repair tape to connect wires.
3. Establish and implement a lockout-tagout procedure when conducting maintenance on electrical machines and equipment.

FINDING NO.20

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Workers are required to be bare foot on the work floor, including the electrician and maintenance staff, which poses risk of injury and electrical shock.
2. The factory does not provide personal protective equipment (PPE) to workers exposed to hazardous chemicals, dust, noise, and toxic air.
3. Electricians are not equipped with any PPE.
4. Cutting operators who use punching cutting machines are not provided with safety shoes, earplugs, or cotton gloves.
5. The factory provides production workers, including those in the sewing section, with wooden benches without backrests or cushions. The work spaces and stations of those in QC and Trimming are not adjustable. They are also arranged too close together. They are also

blocked by big brackets of semi-products behind their benches.

6. The chairs are a too high in QC; workers have to bend their backs when working.

Local Law or Code Requirement

Decision No.3733/2002/QĐ-BYT, Chapter II, Principle 1 and Principle 2; Labor Code No. 10/2012/QH13 (2013), Art.138; Law No. 84/2015/QH13 on Occupational Safety and Hygiene (2015), Art.16; Circular No. 04/2014/TT-BLDTBXH on Guiding Implementation of Regulations on Personal Protective Equipment (2014), Art. 3; Art.4; Art.5; FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety and Environment Benchmarks HSE.7, HSE.17)

Recommendations for Immediate Action

- 1.Allow workers, including electrician and maintenance staff to wear foot protection (shoes, etc.).
- 2.Provide all workers with proper PPE and provide training on its use.

FINDING NO.21

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

- 1.Expiration dates of medicine is not monitored, nor does the factory apply the First-in/First-out (FIFO) principle for the medicine inventory.
- 2.The first aid bag in the clinic is missing the red cross mark and first aid supplies.
- 3.All first aid kits on the work floor are missing the first aid supplies as prescribed.

Local Law or Code Requirement

Circular No. 19/2016, Art.6 and Annex 4; Law No. 84/2015/QH13 on Occupational Safety and Hygiene (2015), Art.16; Art.73; FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety and Environment Benchmarks HSE.1 and HSE.6)

Recommendations for Immediate Action

Ensure all first aid kits and first aid bags are available in sufficient numbers throughout the workplace, maintained and stocked as prescribed, and are easily accessible to workers.

FINDING NO.22

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. All three sampled emergency lights did not work when tested.
2. There are no clear aisles in the old stock warehouse. Workers are completely blocked by products, machines, tables, and chairs in QC, Assembly and Packing section.
3. One of two emergency exits in the sample making room open inward.
4. There is an exit arrow pointing the wrong way in the sample making room. The arrow points towards the room rather than towards the exit. There are worn down exit arrows throughout the entire production area. There are also missing lines on the exit paths.
5. Exit signs in the cutting area are not properly hung and are falling off of the wall.
6. The front of the production building has improper emergency exits; their widths and heights are not sufficient (76cm x 184cm).
7. The evacuation map is missing in the sample making area. The evacuation map in the sponge stuffing area is blocked by semi-products and does not include the "you are here" mark.
8. One of two emergency exits are permanently locked and blocked in the cutting section.
9. Fires have happened in the factory several times but there are no records or investigation reports. Additionally, there was a small fire caused by a lighting system explosion in the meeting room where assessors were supposed to work during the assessment.
10. The smoke detector system installed in the material warehouse is useless as is not connected to the central fire alarm.
11. There is no Automatic Fire alarm in the factory.
12. About 50% of the fire extinguishers have been expired for years. In the strap cutting area and QC, there are fire extinguishers that are under the working pressure.
13. The fire extinguishers and fire hoses in front of the production building and QC are blocked. There are missing fire extinguishers in the sponge stuffing area where the location for extinguishers is marked. No fire extinguisher is provided in the sample making warehouse or at the back of the material warehouse. There are no spare fire extinguishers in the entire factory. The fire extinguishers in QC are not mounted.

14. An unattended welding torch is kept next to a flammable chemical container (glue) in the sample making room. Flammable chemicals are used in the same area as processes that need lighters in the sample making room. This is a severe fire risk in the factory.
15. All the machines, electric control panels, and workshops are not cleaned regularly. Visible dust can be seen on machines and control panels. Additionally, debris are observed on the work floor. These pose fire and tripping hazards.
16. Fire drill was conducted for only 30 out of 364 workers.
17. One out of two fire water pumps do not work when tested.
18. The factory or its warehouse is not equipped with a sprinkler system.

Local Law or Code Requirement

Vietnam Building Code No. QCVN 06:2010/BXD on Fire Safety of Buildings (2010), Art 3.3.1

TCVN 2622 on Fire prevention and protection for buildings and structure - Design requirements (1995), Art. 7.1; Art. 7.17; Art. 7.18; Art. 7.24; Art. 7.5; TCVN 3890:2009 on Fire protection equipment for construction and building – Providing, installation, inspection, maintenance (2009), Art. 10.1.5; Art. 10.1.6; Art. 5.1.3; Decision No. 2726/BKHCN on Fire protection equipment for building and construction - Providing, installation, inspection, maintenance (2009), Art. 6(1)(3); Art. 4(5); Art. 5(1)(7); TCVN 7435-1:2004 on Fire Protection - Portable and Wheeled Fire Extinguishers. Part 1: Selection and Installation (2004), Art. 5; Decree No. 79/2014/NĐ-CP, Art.7; Art.13; Art.21; Circular No. 66/2014/TT-BCA; Art.5, Art.3; Circular No. 52/2014/TT-BCA; Art.9; Art. 10; Art.14; Art.15; Art.26; Law No. 84/2015/QH13 on Occupational Safety and Hygiene (2015), Art.16; Decree No. 108/2008/ND-CP on Detailing and Guiding the Implementation of a Number of Articles of the Chemical Law (2008), Art. 14; Circular No. 28/2010/TT-BCT on Specifying a Number of Articles of the Law on Chemicals and the Government's Decree No. 108/2008/ND-CP Detailing And Guiding a Number of Articles of The Law On Chemicals (2010), Art. 7(2); FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety and Environment Benchmarks HSE.1, HSE.5, and HSE.6)

Recommendations for Immediate Action

1. Immediately cease the use of lighters and welding torches in areas where there are flammable chemicals.
2. Train workers on discipline and proper maintenance of building's fire safety, including emergency drills and emergency response.
3. Conduct fire investigations as prescribed, for example, ensure that all exit paths and emergency exits have emergency lights that are always in good conditions.
4. Maintain clear aisles and adequate, unlocked and unblocked exits with proper exit arrows and yellow lines to mark the nearest exits for safe evacuation.
5. Equip the factory with emergency exits that open outward.
6. Equip each production area with proper and accessible evacuation maps.
7. Connect the smoke detector system to the central fire alarm.
8. Equip the automatic fire alarm and fire extinguishing system in the factory.
9. Equip the factory with an adequate number of fire equipment including 10% of spare fire extinguishers.
10. Conduct maintenance checks and inspections to all fire equipment regularly to ensure their good condition and accessibility.
11. Mount the fire extinguishers.

FINDING NO.23

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Cracks were observed in the production building. The factory has not conducted a building structure inspection.
2. The factory is not well illuminated; workers cannot work comfortably.
3. The factory has not obtained a building construction license and completion certificate.
4. The ladder to the water tank does not have a protective ring.

Local Law or Code Requirement

Circular No. 26/2016/TT-BXD, Art.10; Art.15; Art. 12; Art. 16; Art.17; Annex 3; Labor Code of Vietnam, Art.138; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4, HSE.13, and HSE.14)

Recommendations for Immediate Action

1. Ensure the buildings are safe and have been inspected for structural integrity.
2. Obtain a construction license and completion certificates.
3. Provide adequate lighting for workers.
4. Provide a protective ring for the ladder to the water tank.

FINDING NO.24

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Food samples were not recorded for the months of November and December 2016.
2. Lighting tubes in the kitchen are not covered.
3. Cutting boards and knives used in the kitchen are not made of water resistant materials.
4. Raw food is not kept off the floor and cooked food is not covered. Canteen workers do not use gloves when handling food. The kitchen is not clean or sanitized. Garbage is not removed immediately from the kitchen.
5. Gas tanks in the kitchen are kept next to the stoves.
6. The factory does not manage how many people are serving in the Canteen. Two out of five of the temporary canteen workers are neither trained on the food safety nor provided with a health check.
7. The factory does not test drinking water.

Local Law or Code Requirement

Law No. 55/2010/QH12 on Food Safety (2010), Art. 30; Circular No.15/2012/TT-BYT on Regulation on General Conditions to Ensure Food Safety for Manufacturing Facilities, Food Business (2012), Art. 1, Art.2, Art.3, Art.4; Circular No. 18/2013/TT-BCT, Art. 10; FLA Workplace Code (Employment Relationship, Health, Safety and Environment Benchmarks ER.31; Health, Safety and Environment Benchmarks HSE.1, HSE.22, and HSE.23)

Recommendations for Immediate Action

1. All food made available to workers shall be prepared, stored, and served in a safe and sanitary manner in accordance with all applicable laws.
2. All workers handling food must be trained and/or certified to work in the facility preparing or serving food.
3. Ensure gas tanks are chained and stored in a separated area from gas stoves with no-smoking sign.
4. Cover lighting tubes in the kitchen.
5. Test the drinking water in the legally mandated intervals.

FINDING NO.25

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. All food made available to workers shall be prepared, stored, and served in a safe and sanitary manner in accordance with all applicable laws.
2. All workers handling food must be trained and/or certified to work in the facility preparing or serving food.
3. Ensure gas tanks are chained and stored in a separated area from gas stoves with no-smoking sign.
4. Cover lighting tubes in the kitchen.
5. Test the drinking water in the legally mandated intervals.

Local Law or Code Requirement

Law No. 06/2007/QH12 on Chemicals (2007), Art. 30; Art. 31; Art. 36; Art. 37; Art.39; Decree No. 108/2008/ND-CP on Detailing and Guiding the Implementation of a Number of Articles of the Chemical Law (2008), Art. 14; Circular No. 28/2010/TT-BCT on Specifying a Number of Articles of the Law on Chemicals and the Government's Decree No. 108/2008/ND-CP Detailing And Guiding a Number of Articles of The Law On Chemicals (2010), Art.5; Art.6; Art. 7; Circular No.19/2016/TT- BYT, Art. 5; FLA Workplace Code (Employment Relationship Benchmarks ER.31; Health, Safety and Environment Benchmarks HSE.1, HSE.5, HSE.9, HSE.10, HSE.18, and HSE.23)

Recommendations for Immediate Action

1. Ensure chemicals have proper labels, MSDS, containers, and secondary containers. Chemicals should be classified, stored separately in designated areas off the work floor, and with proper warning signs. Chemical spills should be cleaned up immediately and properly.
2. Provide eyewash stations, shower stations, and spill response equipment in the chemical usage and storage area.
3. Establish chemical safety procedures and a chemical management system, including a complete chemical inventory.
4. Keep chemicals separate from drinking water.

FINDING NO.26

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. Medical waste is not kept separately, but stored together with industrial and household waste.
2. Fans and lights in the sample warehouse and in the strap cutting section are not turned off when not in use.
3. The factory does not have a permit to excavate well water.
4. The factory does not have a permit for waste water discharge.
5. Hazardous wastes is not disposed by a licensed agency.
6. The environmental impact assessment is conducted twice a year instead of four times a year as stated in the environmental protection plan.
7. Empty chemical drums are not kept inside a shelter nor do they have a secondary containment system.
8. There is no grease trap installed in the washing area of the canteen to detach the grease and solid waste discharged from the canteen before going into the settlement tanks.
9. The environmental protection plan was not established until August 2014 although the business license and production operations started 2008.

Local Law or Code Requirement

Law No. 06/2007/QH12 on Chemicals (2007), Art. 35; Decree No. 38/2015/ND-CP on Management of Waste and Discarded Materials (2015), Art. 7, Art. 10, Art. 15; Circular No. 36/2015/TT-BTNMT on Management of Hazardous Wastes (2015), Art. 6; Law No. 55/2014/QH13 on ENVIRONMENTAL PROTECTION, Art. 29, Art. 33; FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety and Environment Benchmarks HSE.1, HSE.2, and HSE.4)

Recommendations for Immediate Action

1. Obtain and update underground water and waste water discharge permits, as legally required.
2. Ensure hazardous waste, including medical waste, is classified, stored, and disposed of appropriately.
3. Equip washing area in the canteen with a grease trap to detach grease and solid wastes discharged from the canteen before going into the settlement tanks.
4. Apply an energy and natural resource saving program throughout the entire factory.
5. Conduct an environmental impact assessment regularly as committed in the environmental protection plan.
6. Update the environmental protection plan to cover the environmental impacts of current operations.