



COMPANIES: Maxport Limited

COUNTRY: Vietnam

ASSESSMENT DATE: 12/07/16

ASSESSOR: FLA China

PRODUCTS: Apparel

NUMBER OF WORKERS: 1800

## FLA Comments

Company Exit Language: Maxport Limited joined the FLA as a Participating Supplier in 2009. In April 2017, Maxport Limited split into two companies which resulted in four out of eight factories ceasing to be under FLA scope, including the factory in this assessment. Due to the transfer in ownership, Maxport Limited is no longer responsible for the follow-up remediation of findings in the factories no longer under its business and that are no longer under FLA scope. No retrenchment was caused by the business split, with most of the workers still employed by the respective factories; workers' right to compensation and benefits are adequately ensured. There were no negative impacts on workers as a result of the business split.

## 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.All new workers start under a probationary contract and sign a labor contract once they successfully complete their probationary period. During the probationary period, the factory does not compensate workers the amount equal to contributions for their social, health, and unemployment insurance as part of their wages. ER.22, C.1
- 2.All new workers undergo a 30-days probationary period, regardless of skill level or experience. While the probation period is aligned with local law, it is not based on complexity and skill required to satisfy work requirements. ER.29
- 3.The performance evaluation for workers after the completion of probation period is not based on specific criteria to measure the performance and qualifications of new workers. The current practice is based on the general comments of the supervisor. (ER.29)
- 4.Job descriptions are only available for the management and administrative staff. ER.1

##### Local Law or Code Requirement

Labor Code, Article 8 Clause 1, Article 90 Clause 3, Article 154 Clause 1. Gender Equality Law, Article 13 Clause 1. Article 27, Probation period, Article 186, Social Insurance Decree 05/2015/ND-CP, Article 7; FLA Workplace Code Benchmark (Employment Relationship Benchmark ER.1, ER.3, ER.22, and ER.29; Nondiscrimination ND.1; Compensation C.1)

##### Root Causes

- 1.The Factory is not aware of the FLA Code and Benchmark requirements.
- 2.The issues have not been brought to the attention of factory management during past audits.
- 3.Factory practice is aligned with local law but is in violation of FLA requirements.
- 4.Different interpretation of local law.
- 5.The factory follows industry practice for probation periods (30 days).
- 6.There is a lack of depth on the policy review process and performance reviews.

##### Recommendations for Immediate Action

- 1.Pay probationary workers the amount equal to their contributions for social, health and unemployment insurance into their wages.
- 2.Revise the policy on pregnancy testing and remove the local law and customer requirement.

##### FLA's Recommendations for Sustainable Improvements

- 1.Base the probationary period on the skill required and complexity of work.
- 2.Establish and define the skills, experience, and performance review criteria needed for job requirement.
- 3.Train HR and other relevant personnel on Recruitment & Hiring and the performance review process.
- 4.Review internal policy and procedures and update to align with local laws.
- 5.Train HR and other relevant personnel on local laws and the FLA Workplace Code of Conduct.
- 6.Establish criteria for performance evaluations for new workers.

## FINDING NO.2

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Industrial Relations

##### Finding Explanation

1.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. (FOA.2)

2.A Worker Dialogue Meeting was periodically conducted between the Trade Union, Factory Management and a group of workers randomly selected from the production lines. The dialogue included a number of comments and contributions from the workers. The factory recorded and took action on each item raised during these Worker Dialogue Meetings; however, there were no workers’ signatures on the final action plan as evidence that the workers agreed with management’s corrective or improvement action. The action plan was only signed by the Trade Union the Management Representative, which does not provide any mechanism to measure worker satisfaction with the process. (ER.25, FOA.1, FOA.16)

##### Local Law or Code Requirement

Labor Code No: 12/2012/QH13, Article 63; FLA Workplace Code (Employer Relationship Benchmarks ER.25; Freedom of Association Benchmarks FOA.1, FOA.2, and FOA.16)

##### Root Causes

- 1.The factory is not aware of the FLA Code and Benchmark requirements.
- 2.The issues have not been brought to the attention of the Factory management during past audits.
- 3.Factory practice is aligned with local law but is in violation with FLA requirements.
- 4.The factory follows industry practice regarding union formation and elections.
- 5.The management was not aware that the final action plan should also be signed by workers
- 6.There was no procedure related to Worker’s Dialogue Program to guide participants on the right process for the program.

##### FLA's Recommendations for Sustainable Improvements

- 1.Provide training to workers on Industrial Relations, including Freedom of Association.
- 2.Establish and implement a procedure for the Workers’ Dialogue meeting which clearly states the schedule for each meeting, a timeline for corrective action, the participants for each dialogue, and topics for discussion.
- 3.Ensure all workers who participate in the Workers’ Dialogue Program are kept updated on outcomes of the meetings and that participants sign final reports to acknowledge they are satisfied with the action taken by the management.

## FINDING NO.3

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

##### Finding Explanation

- 1.The factory operates on an 8.5-hour daily work schedule, including a 30-minute break. The extra 30 minutes worked is considered part of regular working hours and should be considered overtime. (C.1, C.7, HOW.3)
- 2.The factory has established a wage scale; however it does not clearly state the annual wage increase plan for workers’ salaries. (C.17)
- 3.During a low production month, the factory allows workers to not report for work while it pays workers the minimum wage, as agreed to in the labor contract, which is in compliance with local labor law. However, the factory’s policy on Compensation does not state the type of salary paid to workers in the event of employer-caused downtime, employee and outside circumstances situation that obligates the factory to pay either the regional minimum wage rate or based on the signed contract rate. (ER.1, C.17)

##### Local Law or Code Requirement

Decree 49/2013/ND-CP, Point 5, Article 7; Labor Code No. 10/2012/QH13 issued on June 18 2012, Article 93; Labor Code No: 12/2012/QH13, Article 98; Labor Code, Art 108, Decree No.45/2013/ND-CP; FLA Workplace Code (Employment Relationship Benchmark ER.1; Compensation Benchmark C.1, C.7, and C.17; Hours of Work Benchmark HOW.3)

#### Root Causes

- 1.The issues have not been brought to the attention of the factory management during past audits.
- Incorrect interpretation of local law.
- 2.The factory follows industry practice regarding breaks.
- 3.The factory has not given importance to the wage scale and has just focused on wage increases based on government directive.
- 4.The factory does not review and update the wage scale

#### Recommendations for Immediate Action

Ensure the additional half-hour of work is considered overtime and compensated appropriately at the legal overtime premium wage rate.

#### FLA's Recommendations for Sustainable Improvements

- 1.Train HR and relevant management personnel on local law requirements.
- Benchmark and seek external guidance on interpretations of local laws.
- 2.Establish policy and procedure on overtime and break time that is aligned with local law.
- 3.Review the wage scale and payroll periodically and amend as necessary.
- 4.Supplement do that it conforms with the actual conditions at the factory, the labor market, and labor law.
- 5.Consult the Trade Union when establishing or amending the wage scales and/or payroll. Publicize the wage scale on the work floor before implementation.
- 6.Send the wage scale to the labor state management agencies at the district level where the factory is located.
- 7.Provide a yearly training to workers on the Compensation policy, including wage calculations. Maintain a training record with the workers' signatures.
- 8.Establish procedures on wage payments during production downtime. Consult with the Trade Union. Train HR, management personnel, and workers on the procedures.

## FINDING NO.4

### SUSTAINABLE IMPROVEMENT REQUIRED

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

#### Finding Explanation

- 1.The factory has a Retrenchment Policy; however, the policy is not fully developed. ER.32
- 2.The factory provides training, during orientation, to all workers on the Workplace Code of Conduct; however, there is no evidence to prove that training was provided to Security personnel. (ER.1, ER.15)
- 3.During worker interviews, workers perceived that the age range for recruitment was from 18 to 35 years old. However, the factory policy and records showed no age range for recruitment. ER.3, ND.2

#### Local Law or Code Requirement

Labor Code 12/2012/QH13, Article 38, 44, 49; Decree 05/2015/ND-CP, Article 13; FLA Workplace Code (Employment Relationship Benchmark ER.3, ER.15, and ER.32; Nondiscrimination Benchmarks ND.2)

#### Root Causes

- 1.The factory is not aware of the FLA Code and Benchmark requirements.
- 2.The issues have not been brought to the attention of the factory management during past audits.
- 3.Developing a policy on Retrenchment is not a priority as the factory is expanding and the risk of retrenchment is low.
- 4.The factory policy is not communicated well to all workers.

#### FLA's Recommendations for Sustainable Improvements

- 1.Establish a policy and procedures on Retrenchment, with the involvement of the Trade Union, and ensure it complies with the regulations to deal with the unexpected situations.
- 2.Train workers on the Retrenchment policy.
- 3.Provide training to security personnel on the Workplace Code of Conduct.
- 4.Discuss the security personnel's behavior with workers during the Worker's Dialogue meeting to determine if there are issues with the security guards behavior.
- 5.Communicate factory policy and procedures with workers regularly and consistently.

## FINDING NO.5

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

#### Finding Explanation

1. There is only one emergency exit available in the Materials Warehouse, which has total area of 500 square meters, and 30 workers inside. (HSE.5)
2. The evacuation direction markings on the floor of Workshops 1 and 2 do not direct workers to the closest available emergency exit. (HSE.5)
3. There is no emergency light installed in the parking area. (HSE.5)
4. There is no locking mechanism to ensure open exit doors do not close suddenly, causing accidents to workers. (HSE.5)
5. There is no evacuation map in the fabric & accessories storage area in the Materials Warehouse. In addition, the main evacuation map in the Material Warehouse is obstructed by table. (HSE.5). Note: Before the end of this assessment, the factory removed the obstruction at the material warehouse, and provided an evacuation map for the fabric and accessories storage area.

#### Local Law or Code Requirement

Vietnam Fire Safety standard for Buildings QCVN 06: 2010/BXD, point 3.2.5; Vietnam Standard No. 2622:1995, Point 7.5; Vietnam Standard No. 3890:2009, point 10.6; Government Decree No. 79/2014/ND-CP, Article 7; FLA Workplace Code (Health, Safety & Environment Benchmark HSE.5)

#### Root Causes

1. The factory procedures have not been effectively implemented to ensure compliance with local law and FLA requirements.
2. The factory is not aware of the FLA Code and Benchmark requirements.
3. There is a lack of internal monitoring.
4. The issues have not been brought to the attention of the factory management during past audits.
5. Health & Safety is not embedded in factory operations.

#### Recommendations for Immediate Action

1. Provide an adequate number of exits for the Material Warehouse.
2. Remark the evacuation directional markings on the floor to direct workers to the nearest exit.
3. Install emergency light in the parking area.
4. Install locking mechanisms on all exit doors.

#### FLA's Recommendations for Sustainable Improvements

1. Conduct daily internal monitoring on Fire Safety and Emergency preparedness.
2. Ensure Health & Safety procedures are properly and consistently implemented.
3. Train relevant management personnel (line leaders, supervisors, etc.) on Health & Safety.
4. Define the responsibilities of supervisors and line leaders for Health & Safety issues, and obtain their commitment on implementation. Measure the performance of supervisors and line leaders on their implementation of the Fire Safety issues.
5. Establish process to engage workers on the implementation of Health & Safety policy and procedures.
6. Review policy and procedures on Health & Safety and ensure alignment with local laws and FLA Benchmarks.

## FINDING NO.6

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Health & Safety

#### Finding Explanation

1. The factory provides PET bottles for workers to store their drinking water in the workshop. The bottles are cleaned with fresh water once a day. However, the facility changes workers' bottles only once quarterly, which raises concerns regarding hygiene and safety, as PET bottles are non-reusable. (HSE.23)
2. The Canteen does not cover prepared food before it is served. (HSE.22)
3. The facility does not mark chopping boards to distinguish their different purposes (e.g. vegetables, meat, fish). Note: Before the end of this assessment, the factory marked each chopping board for its intended use. (HSE.22)

#### Local Law or Code Requirement

Circular No. 15/2012/TT-BYT, Decision 3733/2002/QĐ-BYT; Decision No. 4128/QĐ-BYT, Art. 2.4 (d); FLA Workplace Code (Health, Safety, and Environment Benchmarks HSE.22 and HSE.23)

#### Root Causes

1. The factory is not aware of the FLA Code and Benchmark requirements.
2. There is a lack of internal monitoring
3. The issues have not been brought to the attention of the factory management during past audits.
4. There is a limited understanding of food safety.
5. The factory has not conducted an effective Health & Safety risk assessment.

#### FLA's Recommendations for Sustainable Improvements

1. Conduct risk assessment and inspection of PET bottles.
2. Provide workers other options for storing drinking water.
3. Conduct regular review of local laws and client standards to ensure compliance.
4. Conduct and regular internal assessment of kitchen and canteen to ensure all applicable safety precautions are consistently implemented.
5. Train kitchen workers on food safety.

### FINDING NO.7

#### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. Emergency procedures for a gas leak were not posted in the kitchen. Note: Before the end of the assessment, the factory posted the emergency procedure for gas leaks near the gas stove. (HSE.5)
2. The number markings on the stoves that show the matching numbers with gas safety valves were not visible. Note: Before the end of the assessment, the factory remarked the gas stove numbers with clearer numbers. (HSE.13)
3. Twenty percent (20%) of ironing workers do not place irons on iron pads while working at the ironing table. (HSE.14)
4. None of the rubber mats in front of the electric panels in Workshop 1 were long enough to ensure the safety of maintenance staff. Note: Before the end of the assessment, the factory has installed additional rubber mats in front of all electric panels to ensure safety. (HSE.13)
5. One buttoning machine at Workshop 1 did not have manual instruction. Note: Before the end of the assessment, the factory posted manual instructions for the buttoning machine. (HSE.14)
6. There was no sign warning of falling objects posted on the shelves storing accessories. Note: Before the end of the assessment, the factory posted a sign on the shelves warning of falling objects. (HSE.14)
7. There is no weight limit sign at material warehouse. (HSE.14) Note: Before the end of this audit, the factory has posted weight limit sign at material warehouse.
8. The gas cylinder storage roof is made of glass, which could not protect the area from direct sunlight. (HSE.13) Note: Before the end of this audit, the factory has covered the roof with dark cloth to protect the area from sunlight. The factory management also made a plan to paint this roof in a month to make it permanently dark.

##### Local Law or Code Requirement

Law No. 28/2004/QH11, Article 57; FLA Workplace Code (Health, Safety, and Environment Benchmarks HSE.5, HSE.13, and HSE.14)

##### Root Causes

1. The factory procedures have not been effectively implemented to ensure compliance with local law and FLA requirements.
2. The factory is not aware of the FLA Code and Benchmark requirements.
3. There is a lack of internal monitoring.
4. The issues have not been brought to the attention of the factory management during past audits.
5. Health & Safety is not embedded in factory operations.

#### FLA's Recommendations for Sustainable Improvements

1. Conduct daily internal monitoring of Health & Safety.
2. Ensure Health & Safety procedures are implemented properly and consistently.
3. Train relevant management personnel (line leaders, supervisors, etc.) on Health & Safety.
4. Define the responsibilities of supervisors and line leaders for Health & Safety issues, and obtain their commitment on implementation. Measure the performance of supervisors and line leaders on their implementation of Health & Safety.
5. Train canteen personnel on Health & Safety
6. Review Health & Safety policy and procedures and ensure alignment with local laws and FLA requirements.
7. Remind and encourage workers regularly to follow safety requirements.

### FINDING NO.8

#### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation



- 1.The laser cutting room has insufficient ventilation, resulting in a strong chemical odor. There is an exhaust pipe for each laser cutting machine but it was not enough to eliminate the chemical odor. (HSE.13)
- 2.The temperature in the carton packing area of both Workshops 1 and 2 exceeded the legal limit of 32 degree Celsius in June and July 2016. The facility has a ventilation system and an additional fan was provided during those hot days; however, it was not enough to ensure workers did not feel overheated. (HSE.13)
- 3.There was no sign posted to remind workers to use the required PPE at the maintenance area sanding machine, the laser cutting room, and air-compressor area. Note: Before the end of the assessment, the factory posted warning signs for the use of PPE near the sanding machine, in the laser cutting room, and in the air-compressor areas. (HSE.8, HSE.14)
- 4.The factory did not provide earplugs for the air compressor area. Note: Before the end of this assessment, the factory has provided a box in the air compressor area containing earplugs for workers. (HSE.7)
- 5.The facility only has portable a eyewash tank placed near the hazardous waste storage, which might not have sufficient pressure to operate, due to water level of the tank. (HSE.6)

#### Local Law or Code Requirement

Vietnam Labor Laws, Article 138; Law No. 06/2007/QH12, Article 30; FLA Workplace Code (Health, Safety, and Environment Benchmarks HSE.6, HSE.7, HSE.8, HSE.13, and HSE.14)

#### Root Causes

- 1.The factory's building structure (built of glass and steel with fans on the ceiling) is not sufficient to ensure good ventilation and adequate cooling.
- 2.The factory procedures have not been effectively implemented to ensure compliance with local law and FLA requirements.
- 3.There is a lack of internal monitoring
- 4.The issues have not been brought to the attention of the factory management during past audits.
- 5.Health & Safety not embedded in factory operations.
- 6.The factory has not conducted a risk assessment not conducted
- 7.The factory provides training to workers on PPE but has not considered effective methods to regularly remind workers to comply.

#### Recommendations for Immediate Action

- 1.Provide adequate ventilation in the laser cutting room and carton packing area.
- 2.Replace eyewash tank with industrial eye wash station.

#### FLA's Recommendations for Sustainable Improvements

- 1.Conduct daily internal monitoring, and a risk assessment.
- 2.Implement Health & Safety procedures properly and consistently.
- 3.Train relevant management personnel (line leaders, supervisors, etc.) on Health and Safety.
- 4.Define the responsibilities of supervisors and line leaders for Health & Safety issues, and obtain their commitment on implementation. Measure the performance of supervisors and line leaders on their implementation of Health & Safety.
- 5.Review Health & Safety policy and procedures ensure alignment with local laws and FLA requirements.
- 6.Train workers on the use of PPE and regularly remind workers of compliance. Conduct a dialogue with workers on effective and consistent use of PPE.
- 7.Continue to explore innovative solutions to improve ventilation in the factory.