



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Kathmandu

COUNTRY: China

ASSESSMENT DATE: 09/26/18

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS:

Summary of Code Violations

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

Findings and Action Plans

FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory has established written policies and procedures on Personnel Development, however, they do not include: Content that encourages the ongoing training of all categories of workers with the goal of raising or broadening skills in order to advance in their careers within the factory and beyond; Information regarding demotions. [ER.1, ER.28, ER.30]

2. The factory has hired nine disabled workers. However, the local law requires that at least 1.5% of the total workforce (twelve) should be comprised of disabled workers. The factory does not contribute to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law. [ER.3, ND.1, ND.2]

3. The factory's employee handbook indicates that workers who sign a three-year labor contract will have a probation period of no more than six months. However, according to the FLA Code and Benchmarks, the probation period shall not exceed three months. (Note: none of the workers has signed a three-year labor contract with the company so far.) [C.3]

Local Law or Code Requirement

Regulation on the Employment of the Disabled, Articles 8 and 9; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.3, ER.28, and ER.30; Non-Discrimination Benchmarks ND.1 and ND.2; Compensation Benchmark C.3)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Revise the policies and procedures
2. Not applicable. Not mandatory as per local law. The factory can pay the Disabled employment security fund instead.
3. Not applicable. No local law requirement

Planned completion date

03/27/19

Action Plan no 2.

Description

Nil

Planned completion date

03/27/19

Company Action Plan Update

1. The factory had established the skill development plans.
2. Disabled workers occupied at least 1.5% of the total workforce.
3. The factory cancelled this regulation.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. There are some inconsistencies between the overtime records that the factory provided to assessors and the information that assessors obtained from the manual attendance records and worker interviews. The factory's payroll documents are based on the overtime records. As a result, assessors could not verify whether the factory accurately compensates workers for overtime at the overtime premium rate since the payroll documents do not reflect workers' actual overtime hours. [ER.18, C.7, C.15, C.16]

2. The factory only contributes to the Housing Provident Fund for 646 out of 703 eligible employees (92%). [ER.22, C.1, C.5, C.10]

3. The factory calculates its contributions to the Housing Provident Fund for 504 employees incorrectly. The contributions are based on CNY 2,420 (USD 352.26) instead of the employees' average monthly wage from the last year (about 80% of employees' wage range is between CNY 4,200 (USD 611.35) to CNY 5,500 (USD 800.58 per month)). [ER.22, C.1, C.5, C.10]

Local Law or Code Requirement

China Labor Law, Article 44; Regulations on Management of Housing Provident Fund, Articles 2, 3 and 15; FLA Workplace Code (Employment Relationship Benchmarks ER.18 and ER.22; Compensation Benchmarks C.1, C.5, C.7, C.10, C.15, and C.16)

Recommendations for Immediate Action

1. Maintain complete and accurate payroll records which are linked with workers' actual working hours. Ensure all overtime work is paid at the legal premium rate.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Have a reliable time recording system and maintain complete and accurate time records. 2. Continuous Improvement 3. Continuous Improvement

Planned completion date

12/27/18

Action Plan no 2.

Description

Continuous Improvement

Planned completion date

12/27/18

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. There are some inconsistencies between the electronic time records and manual attendance records. For example, the electronic time records and payroll documents both indicate zero or three hours of overtime per day for 19 workers on August 6-8 and 17 workers on September 5-7. However, the manual attendance records collected from the workshop indicate that the workers worked four hours of overtime on those days. [ER.1, ER.2, ER.23]
2. The factory has obtained approval to adopt a Comprehensive Working Hours System (CWHS), which is valid from April 1, 2017 to March 30, 2019. However, the total working hours for 80% of employees during the period from April 1, 2018 to June 30, 2018 exceeded the approved CWHS limit of 604 hours quarterly. Working hours ranged from 679 to 725 hours during this period. [HOW.1, HOW.7]
3. According to the electronic time records from September 2017 to September 25, 2018, weekly working hours did not exceed 60 hours. However, according to the manual attendance records collected from the workshop for the period from August to September 25, 2018, the weekly working hours for nineteen workers in August 2018 and seventeen workers in September 2018 exceeded 60 hours per week in four to five reviewed weeks, with a maximum of 72 hours during the week of September 17-22, 2018. [HOW.1, HOW.8]
4. The factory's production plan is based on a 52-hour work week, which includes 12 hours of overtime. [HOW.8]

Local Law or Code Requirement

Instruction on the Implementation of the China Labor Law, Article 65. FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.2, and ER.23; Hours of Work Benchmarks HOW.1, HOW.7, and HOW.8)

Recommendations for Immediate Action

1. Maintain complete and accurate time records.
2. Do not require or allow workers to work more hours than are allowed under the CWHS.
3. Do not require or allow workers to work more than 60 hours per week.
4. Do not include overtime in the production plan.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Have a reliable time recording system and maintain complete and accurate time records.
- 2&3&4 Control working hours to be in compliance with client standards

Planned completion date

12/27/18

Company Action Plan Update

TBA

Action Plan no 2.

Description

N/A Continuous Improvement

Planned completion date

12/27/18

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Termination & Retrenchment

Finding Explanation

1. There are no policies or procedures on Retrenchment. [ER.1, ER.19, ER.32]
2. The factory does not communicate with the general workforce regarding the Retrenchment policies, procedures, or their updates since the policies and procedures do not exist. [ER.1, ER.16]
3. The factory's Termination procedures do not include methods for calculating final payouts. [ER.1, ER.19]
4. Termination payouts are paid on the tenth day of the month following the date of termination, at the same time as regular wage payments. According to local law, termination payouts should be paid on the last day of work. [ER.18, C.1, C.4]

Local Law or Code Requirement

Provision of Shanghai Municipality on the Wage Payment to Employees, Article 10; FLA Workplace Code (Employment Relationship Benchmark ER.1, ER.16, ER.18, ER.19, and ER.32; Compensation Benchmarks C.1 and C.4)

Recommendations for Immediate Action

1. Pay termination payouts to workers on their last day of work as legally required.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Set up policies and procedures on Retrenchment.
2. communicate with the general workforce regarding the Retrenchment policies, procedures, or their updates
3. Include methods for calculating final payouts in termination procedures
4. Not applicable. In accordance with Shanghai City Measures on the Payment of Wages by Enterprises article 7, When an enterprise terminates or dissolves the labor relationship with an employee according to law, wages should be paid off to employee after appropriate procedures have been taken. If both parties reach a legal agreement otherwise, the agreement will prevail.

Planned completion date

12/27/18

Company Action Plan Update

TBA

Action Plan no 2.

Description

Nil

Planned completion date

12/27/18

Company Action Plan Update

26. The factory established the procedures on Retrenchment.

27. The factory had established the policies and procedures.

28. The factory's Termination procedures has included methods for calculating final payouts.

29. The factory has already made an agreement with workers.

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The factory does not provide workers with a copy of the Collective Bargaining Agreement (CBA). [ER.16]

2. The factory's parent company has a trade union that was established in 2008 under the ACFTU (All China Federation of Trade Unions). Trade Union representatives are chosen by management, the present union committee has been composed of the same members since 2008. There are five committee members in total. However, four out of five committee members are factory management staff (administrative supervisor, human resource officer, and production supervisor). [FOA.10, FOA.11]

3. FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements. [FOA.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.16; Freedom of Association Benchmarks FOA.2, FOA.10 and FOA.11)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Post CBA on notice board
2. Ensure half committee representatives are workers
3. Continuous Improvement

Planned completion date

09/27/19

Company Action Plan Update

TBA

Action Plan no 2.

Description

Continuous Improvement

Planned completion date

09/27/19

Company Action Plan Update

1. The factory had posted the CBA.
2. The factory had selected the committee members as required.
3. N/A Continuous Improvement

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. The records of disciplinary actions are maintained in a centralized file, not in workers' personnel files. [ER.2, ER.27]
2. The factory's current disciplinary procedures do not include workers' right to have a third-party witness present during imposition of disciplinary actions. [ER.27]
3. Workers do not have the right to participate and be heard in disciplinary procedures against them. [ER.27]
4. The factory has not clearly defined in writing the person responsible for Workplace Conduct & Discipline in the factory. [ER.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.2, and ER.27)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Include the disciplinary actions in workers' personnel files;
2. Include a third party witness present during imposition of disciplinary actions; (for example, worker, worker's supervisor, HR staff)
3. Allow workers to participate and be heard in disciplinary procedures against them;
4. Define in writing the person responsible for Workplace Conduct & Discipline in the factory

Planned completion date

03/27/19

Company Action Plan Update

TBA

Action Plan no 2.

Description

Nil

Planned completion date

03/27/19

Company Action Plan Update

1. Disciplinary actions were maintained in workers' personnel files.
2. The factory had updated its policy to have a third-party witness present during imposition of disciplinary actions.
3. The factory update its policies and procedures on the following functions: Workers have the right to participate and be heard in disciplinary procedures against them.

4. The factory assigned the person responsible for Workplace Conduct & Discipline in the factory and posted their name & telephone number in all workshops.

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has not conducted a fire risk assessment. [HSE.1, HSE.5]
2. The emergency action plans do not include steps to ensure that external parties, such as service providers or visitors, are safely evacuated. [ER.31]
3. The first aid kit locations are not marked on any of the evacuation maps posted in the factory. [HSE.5, HSE.6]
4. One of the two evacuation doors in the inspection workshop on the second floor of the C1 Building opens inward. About 100 workers work in the workshop. [HSE.5]

Local Law or Code Requirement

Escape and Evacuation-Principles and Requirements, Article 7.3; The Code of Design on Building Fire Protection and Prevention, Article 6.4.11. FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety & Environment Benchmarks HSE.1, HSE.5, and HSE.6)

Recommendations for Immediate Action

1. Conduct a fire risk assessment and address any issues in a timely manner.
2. Revise the emergency action plans so that they provide clear guidance regarding the evacuation of external parties, such as service providers and visitors.
3. Mark the first aid kit locations clearly on all evacuation maps.
4. Replace the emergency exit door in the inspection workshop with one that opens outwards.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. conduct a fire risk assessment
2. The emergency action plans: include steps to ensure that external parties, such as service providers or visitors, are safely evacuated
3. Mark the first aid kit locations are on the evacuation maps posted in the factory.
4. Re-install the doors open inward in the inspection workers

Planned completion date

12/27/18

Company Action Plan Update

TBA

Action Plan no 2.

Description

Nil

Planned completion date

12/27/18

Company Action Plan Update

15. The factory has conducted a fire risk assessment
16. The factory provided sufficient guidance to visitors regarding emergency evacuation plan.
17. The first aid kit locations are marked on all evacuation maps posted in the factory.
18. The factory dismantled these 2 doors.

FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory does not provide pre-job and post-job occupational health examinations for printing and embroidery workers who are exposed to chemicals or noise. [HSE.1]
2. At the time of the assessment, neither of the workers working in the press-printing room on the third floor of Building C2 were wearing the masks they were provided while working. Neither of the workers in the silk-printing workshop on the third floor of Building C2 were wearing the gloves they were provided while working either. [HSE.8]
3. None of the walking paths in the factory are marked. [HSE.6]
4. About 24% (129 out of 535) of the chairs in the sewing workshop are not adjustable. Furthermore, no anti-fatigue mats have been provided for workers with standing jobs. [HSE.17]
5. The Occupational Hazards Test Reports are not posted in the relevant workshops (printing and embroidery workshops). [ER.16, HSE.1, HSE.2]
6. There are no lists of first aid personnel and their phone numbers posted next to the first aid kits in the factory. [HSE.6]
7. The factory does not track workers' illnesses. [HSE.3]
8. The factory has not updated their Business License as legally required. Currently, the factory uses two production buildings and one flat warehouse. However, the registered address on the Business License only covers one production building. [HSE.1, HSE.4]

Local Law or Code Requirement

The China Law of Prevention and Control of Occupational Diseases, Articles 24, 25 and 36; Enterprises Legal Representative Registration Management Regulation of the People's Republic of China, Article 17; FLA Workplace Code (Employee Relationship Benchmark ER.16; Health, Safety & Environment Benchmarks HSE.1, HSE.2, HSE.3, HSE.4, HSE.6, HSE.8, and HSE.17)

Recommendations for Immediate Action

1. Provide pre- and post- employment occupational health examinations to printing and embroidery workers.
2. Retrain workers on the importance of PPE use. Monitor workers to ensure compliance.
3. Obtain an updated business license.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. provide pre-job and post-job occupational health examinations for printing and embroidery workers who are exposed to chemicals or noise.
2. train workers to wear required PPE

3. Mark walking paths
4. Not required by local law. Continuous Improvement.
5. Post occupational Hazards Test Reports in the relevant workshops (printing and embroidery workshops).
6. Provide lists of first aid personnel and their phone numbers posted next to the first aid kits in the factory.
7. track workers' illnesses
8. updated Business License as legally required.

Planned completion date

03/27/19

Company Action Plan Update

TBA

Action Plan no 2.

Description

Nil

Planned completion date

03/27/19

Company Action Plan Update

5. There are sufficient evacuation signs in the factory.
6. The factory has provided chairs with back support and anti-fatigue mats to the workers
7. The Occupational Hazards Test Reports are posted in the relevant workshops (printing and embroidery workshops).
8. The lists of first aid personnel and their phone numbers were posted next to the first aid kits in the factory.
9. The factory had created an illness form and collected their treatment progress.

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The factory has not arranged for a licensed waste handler to dispose of hazardous waste (printing ink) generated in the factory. [HSE.1, HSE.4, HSE.9]
2. The factory's Environmental Protection procedures do not include steps for managing the factory's environmental impact on its surroundings. [ER.1, ER.31]
3. The factory has not identified whether any of its on-site operations generate any negative environmental impacts. [ER.31]

Local Law or Code Requirement

The China Law of Prevention and Treatment of Environmental Pollution by Solid Wastes, Article 57; FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.31; Health, Safety & Environment Benchmarks HSE.1, HSE.4, and HSE.9]

Recommendations for Immediate Action

1. Arrange for licensed waste handler to dispose of hazardous waste in accordance with legal requirements. Maintain the transfer manifest on-site.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. arrange for a licensed waste handler to dispose of hazardous waste (printing ink) generated in the factory.
2. Environmental Protection procedures: include steps for managing the factory's environmental impact on its surroundings.
3. identify whether any of its on-site operations generate any negative environmental impacts.

Planned completion date

12/27/18

Company Action Plan Update

TBA

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

1. The factory does not regularly review and update its policies and procedures on the following Employment Functions: Termination & Retrenchment; Workplace Conduct & Discipline. [ER.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1]

COMPANY ACTION PLANS

Action Plan no 1.

Description

regularly review and update its policies and procedures on the following Employment Functions: Termination & Retrenchment; Workplace Conduct & Discipline.

Planned completion date

03/27/19

Company Action Plan Update

TBA

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The orientation training provided to workers does not cover the following Employment Functions: Recruitment, Hiring & Personnel Development, Termination & Retrenchment, Industrial Relations, and Grievance System. [ER.1, ER.15]

2. The factory does not provide specific training to the relevant supervisors or managers on Workplace Conduct & Discipline and Retrenchment. [ER.1, ER.17, ER.27]

3. The factory does not provide training for the relevant Human Resources (HR) personnel and administrative staff on Workplace Conduct & Discipline. [ER.1, ER.17, ER.27]

4. The factory does not provide ongoing training to workers on the following Employment Functions: Workplace Conduct & Discipline and Retrenchment. [ER.1, ER.15]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, ER.17, and ER.27)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. The orientation training provided to workers: cover the following Employment Functions: Recruitment, Hiring & Personnel Development, Termination & Retrenchment, Industrial Relations, and Grievance System
2. provide specific training to the relevant supervisors or managers on Workplace Conduct & Discipline and Retrenchment.
3. provide training for the relevant Human Resources (HR) personnel and administrative staff on Workplace Conduct & Discipline
4. provide ongoing training to workers on the following Employment Functions: Workplace Conduct & Discipline and Retrenchment.

Planned completion date

03/27/19

Company Action Plan Update

TBA

Action Plan no 2.

Description

Nil

Planned completion date

03/27/19

Company Action Plan Update

11&12&13&14 The factory conducted all required trainings.

FINDING NO.12

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. Worker integration in the factory is not complete. Workers are not systematically integrated or consulted in decision-making processes, especially with respect to Recruitment, Hiring & Personnel Development, Grievance System, Industrial Relations, and Environmental Protection. [ER.1, ER.25]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.25)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Systematically integrate or consult workers in decision-making processes, especially with respect to Recruitment, Hiring & Personnel Development, Grievance

Planned completion date

03/27/19

Company Action Plan Update

N/A

Action Plan no 2.

Description

Nil

Planned completion date

03/27/19

Company Action Plan Update

The factory had conducted worker committee meetings.

FINDING NO.13

NOTABLE FEATURE

FINDING TYPE: Compensation

Finding Explanation

1. The factory provides free meals for workers.

COMPANY ACTION PLANS

Action Plan no 1.

Description

N/A

Company Action Plan Update

N/A

FINDING NO.14

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. There is no eye wash station in the press-printing room on the third floor of Building C2, where chemicals are used. [HSE.6]

2. There is no secondary containment available for chemicals such as press-printing ink and other chemicals used in the press-printing room on the third floor of Building C2. There is no secondary containment available for the chemical waste containers in the hazardous waste storage warehouse either. [HSE.9]

3. There are no Material Safety Data Sheets (MSDS) posted in the press-printing room on the third floor of Building C2. [HSE.10]

Local Law or Code Requirement

The China Law of Prevention and Control of Occupational Diseases, Article 25; The Regulation for Safety of Dangerous Chemical, Article 20. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.6, HSE.9, and HSE.10)

Recommendations for Immediate Action

1. Install an eyewash station in the press-printing room.

2. Provide secondary containment for the chemicals used in the press-printing room and the chemical waste containers.

3. Post the relevant MSDS in the press-printing room.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Install eye wash station
2. Provide secondary containment for chemicals
3. Provide MSDS

Action Plan no 2.

Description

Nil

Company Action Plan Update

1. The factory provide the eye wash station/facility as legally required.
2. The factory had provided secondary containment to chemicals.
3. The factory did not use chemicals in this floor now.

FINDING NO.15

NOTABLE FEATURE

FINDING TYPE: Environmental Protection

Finding Explanation

1. The factory has obtained certificate of ISO14001 with the validity till 2020.

COMPANY ACTION PLANS

Action Plan no 1.

Description

N/A

Company Action Plan Update

N/A

Action Plan no 2.

Description

N/A

Company Action Plan Update

N/A

Action Plan no 3.

Description

Nil

Company Action Plan Update

1. The factory has arranged for a licensed waste handler to dispose of hazardous waste (printing ink) generated in the factory.
2. The factory has done test on waste air pollution, boundary noise and waste water.

3. The factory has done test on waste air pollution, boundary noise and waste water.