



FAIR LABOR  
ASSOCIATION®

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Nike, Inc  
Under Armour, Inc.

COUNTRY: Mexico

ASSESSMENT DATE: 11/29/18

ASSESSOR: VeLar

PRODUCTS: Apparel

NUMBER OF WORKERS: 1484

## 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: Responsibility & Accountability (Macro)

##### Finding Explanation

1. The factory has not defined in writing the person responsible and accountable for the following Employment Functions: Industrial Relations; Workplace Conduct & Discipline; Grievance System; and Health & Safety. [ER.1, ER.31]

2. The factory has not defined in writing the person with ultimate responsibility and accountability within the factory. [ER.1]

##### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.31)

#### COMPANY ACTION PLANS

##### Action Plan no 1.

##### Description

The factory must identify to us: a) the person responsible and accountable for the following Employment Functions: Industrial Relations; Workplace Conduct & Discipline; Grievance System; and Health & Safety, consistent with FLA benchmarks; and b) the person with the ultimate responsibility and accountability within the factory.

### FINDING NO.2

#### SUSTAINABLE IMPROVEMENT REQUIRED

## FINDING TYPE: Policies & Procedures (Macro)

### Finding Explanation

1. The factory does not have written policies on the following Employment Functions: Recruitment, Hiring & Personnel Development; Compensation; Termination & Retrenchment; Industrial Relations; Workplace Conduct & Discipline; Grievance System; and Health & Safety. [ER.1, ER.7, ER.25, ER.27, ER.29, ER.30, ER.31, ER.32]

2. The factory does not have written procedures on the following Employment Functions: Compensation; Termination & Retrenchment; Grievance System; Environmental Protection; and Health & Safety. [ER.1, ER.19, ER.25, ER.31, HSE.5]

### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.7, ER.19, ER.25, ER.27, ER.29, ER.30, ER.31, and ER.32; Health, Safety & Environment Benchmark HSE.5)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

The factory must identify the top manager and teams who will

1. Develop policies and procedures for Recruitment, Hiring & Personnel Development; Compensation; Termination & Retrenchment; Industrial Relations; Workplace Conduct & Discipline; Grievance System; Environmental Protection and Health & Safety, consistent with FLA benchmarks and requirements.
2. Facilitate communication with and active participation from workers on the development of the policies and procedures.
3. Facilitate ongoing evaluations and revisions of policies and procedures.
4. Provide continuous training for all workers, supervisors, and managerial staff on the new policies and procedures.
5. Include information on the newly developed policies and procedures during worker orientation or induction process.
6. Designate staff with the responsibility for policy/procedure enforcement and implementation.
7. Provide workers with documents detailing the information that is covered during the orientation or induction process.

Please send us an updated copies of the newly created policies and procedures for our review/consideration.

## FINDING NO.3

## SUSTAINABLE IMPROVEMENT REQUIRED

## FINDING TYPE: Training (Macro)

### Finding Explanation

1. The factory does not provide ongoing training to workers on the following Employment Functions: Recruitment, Hiring & Personnel Development; Compensation; Hours of Work; Termination & Retrenchment; Workplace Conduct & Discipline; Grievance System; Environmental Protection; and Health & Safety. [ER.1, ER.15, ER.25, ER.28]

2. The factory does not provide specific training to the relevant supervisors on the following Employment Functions: Recruitment, Hiring & Personnel Development; Compensation; Hours of Work; Termination & Retrenchment; Workplace Conduct & Discipline; Grievance System; Environmental Protection; and Health & Safety. [ER.1, ER.17, ER.27]

### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, ER.17, ER.25, ER.27, and ER.28)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

The factory must identify the person who will conduct ongoing/documented educational sessions in, and with materials in, Spanish and any other applicable dialects and languages, with its workers, supervisors and managers about their legal rights and responsibilities, and its written personnel policies covering topics including the following Employment Functions: Industrial Relations; Workplace Conduct & Discipline; Grievance System; Environmental Protection, and Health & Safety, consistent with FLA benchmarks.

Going forward, the factory also must address these topics with newly hired personnel in documented meetings. The meeting documentation should be filed in each worker's personnel file, and include: 1) the date of the meeting; 2) a completed checklist of the topics covered; 3) the worker's typed/printed name and (factory identification number (FIN), if applicable) workers' signature, and 4) the typed/printed name (FIN, if applicable), the title and the signature of the factory representative that conducted the meeting.

The factory must document its efforts (interactive training, with questions and answers about the topics/sections) to ensure that all: 1) managers; 2) supervisors and 3) workers are knowledgeable (know the topics/sections/content) of listed employment functions above, but also including: a) the Under Armour Supplier and Nike Codes, and b) the Fair Labor Association's Workplace Code of Conduct (<http://www.fairlabor.org/our-work/labor-standards> and related benchmarks). Please send us supporting documentation for the ongoing training, such as a schedule for training, attendance sheets, and photos.

## FINDING NO.4

## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Communication & Worker Involvement (Macro)

#### Finding Explanation

1. The factory does not communicate with the general workforce regarding its policies, procedures, or updates on any of the Employment Functions. [ER.1, ER.16, ER.25, ER.27, ER.29, ER.30, C.17]

#### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.16, ER.25, ER.27, ER.29, and ER.30; Compensation Benchmark C.17)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

The factory must identify the top manager and teams who will

1. Facilitate communication with and active participation from workers on the development of the policies and procedures.
2. Facilitate ongoing evaluations and revisions/updates of policies and procedures.
3. Provide continuous training for all workers, supervisors, and managerial staff on the new policies and procedures.

Please send us evidence of review/updates and communication of all factory's policies and procedures, for our review/consideration.

## FINDING NO.5

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Review Process (Macro)

##### Finding Explanation

1. The factory does not regularly review or update its policies and procedures on any of the Employment Functions. [ER.1, ER.29, ER.30, ER.31]

##### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.29, ER.30, and ER.31)

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

The factory must identify the top manager and teams who will

1. Facilitate communication with and active participation from workers on the development of the policies and procedures.
2. Facilitate ongoing evaluations and revisions/updates of policies and procedures.
3. Provide continuous training for all workers, supervisors, and managerial staff on the new policies and procedures.

Please send us evidence of review/updates and communication of all factory's policies and procedures, for our review/consideration.

## FINDING NO.6

### SUSTAINABLE IMPROVEMENT REQUIRED

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

##### Finding Explanation

1. The factory does not have a program that encourages ongoing training with the goal of raising or broadening workers' skills in order to advance them in their careers within the factory or beyond. [ER.1, ER.28]
3. The factory does not have a performance evaluation system. [ER.1, ER.29]
4. The factory does not have a promotion, demotion, and job reassignment system. [ER.1, ER.30]

##### Local Law or Code Requirement

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

The factory must identify the top manager and teams who will

1. Develop policies and procedures for Personnel Development; including performance reviews/evaluation for all workers (direct/indirect) that a) outline review steps and process, b) demonstrate linkages to job grading, c) prohibit discrimination, d) are provided in writing and seek feedback and agreement/disagreement from employees in writing, e) and that follow all local legal requirements.
2. Develop promotion, demotion, and job reassignment system policies and procedures.
3. Facilitate communication with and active participation from workers on the development of the policies and procedures, continuous training to broaden worker skills, and develop a mechanism for workers to express their views and opinions on Personnel Development.
4. Facilitate ongoing evaluations and revisions of policies and procedures.
5. Provide continuous training for all workers, supervisors, and managerial staff on the new policies and procedures.
6. Include information on the new Personnel Development policies and procedures during worker orientation or induction process.
7. Designate staff with the responsibility for policy/procedure enforcement and implementation.

Please send us an updated copy of the Personnel Development policies and procedures; and evidence of performance reviews conducted for production workers.

## FINDING NO.7

## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Industrial Relations

#### Finding Explanation

1. The factory has a Collective Bargaining Agreement (CBA) with an industry union, but the worker representatives did not participate in the negotiation process. The union leaders who signed the CBA were not elected by the workers, they were chose by the union executives. [FOA.10, FOA.11, FOA.16, FOA.20]

2. Workers automatically join the union during the hiring process; they are not allowed to decide whether they want to join the industry union or not. [FOA.2]

#### Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2, FOA.10, FOA.11, FOA.16, and FOA.20)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Immediate Action Required: The

factory must identify the manager/team who/that will be responsible for ensuring:

- Workers are able to freely exercise their rights to Freedom of Association and Collective Bargaining.
- The factory's Collective Bargain Agreement (CBA) is negotiated and signed with a workers' genuine representative structure, not by the union leaders who were not elected by the factory workers.
- Workers are no longer automatically enrolled with the union during the hiring process without consultation.
- If a worker opts not to enroll to the union, he/she could still be hired by the factory.
- The factory posts the CBA in the facilities and provides copies of the CBA to the workers so they can review or consult.

## Action Plan no 2.

### Description

Sustainable Improvement Required: Top management at Wintan/Leotex Textile to identify to us the manager/team who/that will be responsible for: 1) considering the commissioning of a 3rd party labor expert to review current factory labor relation practices and recommend areas for improvement based on FLA's Freedom of Association (FOA) Benchmarks, ILO Conventions and Jurisprudence to ensure factory workers are free to join organizations of their own choosing. Expert to train managers, supervisors and workers on the factory's Industrial Relations policy and procedures and Freedom of Association; 2) Human Resources staff establishes and implements an effective internal monitoring procedure to ensure that all policies and procedures, other documents and practices are consistent with the local law, FLA Benchmarks and ILO Conventions and jurisprudence; 3) increase worker and management awareness of the barriers to the exercise of associational rights that result from protection contracts (please refer to the materials suggested below and conduct a documented review); 4) to communicate to workers that they have the right to join organizations of their own choosing and that management will not interfere with their decisions; 5) to create and effectively implement an Industrial Relations policy and procedures that would include a clear commitment to: a) respect Freedom of Association and workers' associational rights; and b) enable workers to consult with and provide input to management through appropriate worker representative structures; 6) workers and supervisory and managerial staff to be trained on the newly created policy and procedures; including non-discrimination and freedom of association standards for personnel in charge of policy/procedure development as well as implementation; 7) consider to negotiate during the next CBA meeting the elimination of the exclusion clause; 8) management allows union representatives to be comprised of workers nominated and elected by workers themselves without management interference. 9) Please also a) review i) the FLA's 2015 Memo on protection contracts in Mexico (attached) and ii) Maquila Solidarity Network (MSN) Freedom of Association Toolkit for/on Protection Contracts <http://www.maquilasolidarity.org/en/msns-freedom-association-mexico-tool-kit>; b) identify the Wintan/Leotex Textile Manager who will conduct a documented review of both documents; and in collaboration with the 3rd party labor expert, a

documented analysis of factory practices versus issues or practices in the factory and c) create a documented action plan to address identified issues and closed identified gaps in current practices vs. FLA and MSN practices.

## FINDING NO.8

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Grievance System

##### Finding Explanation

1. The factory has not implemented a functioning grievance system. The factory does not have any records showing that they follow up on the workers' complaints and suggestions received from the suggestion boxes. [ER.2, ER.25]

##### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.2 and ER.25)

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

The factory must identify the person who will develop and effectively implement comprehensive written grievance: 1) policies and 2) procedures. The grievance procedures must include: 1) a means by which its workers can directly and confidentially report grievances to top management/human resource personnel (for example, by sending text messages to a dedicated H.R. Supervisor's telephone number; an email message to a dedicated H.R. Department email address; making telephone calls to a dedicated H.R. Department hotline or telephone number) without the knowledge of or involvement by supervisors and free from reprisal, retribution and retaliation, and 2) a grievance register (see attached example), in substance reflecting the date and nature of the grievance and the action taken, among other things. Please also confirm that top management will regularly and confidentially meet with employees without supervisors being involved or present. The factory should conduct documented training, and with materials, in Spanish and any other applicable dialects and languages, with its managers, Human Resources personnel and workers about each of the policies and procedures. The factory should document actions it subsequently takes in accordance with, and pursuant to these policies and procedures in any affected managers' and workers' on site personnel files.

Please send us evidence or supporting documentation of a functioning grievance system for our consideration.

## FINDING NO.9

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. There are loose wires running from the electrical panel to the machinery in the labeling area. [HSE.1, HSE.13]

2. The factory only conducts fire drills during the morning shift. As a result, not all workers participate. [ER.1, HSE.1, HSE.5]



3. There is an unlabeled container of a cleaning chemical located next to the emergency exit in the corridor leading to the machinery warehouse. In addition, there is no Material Safety Data Sheet (MSDS) for this chemical located in the cleaning area. [HSE.1, HSE.9, HSE.10]
4. The factory does not perform spirometry tests on workers who are exposed to dust and other particles. [HSE.1]
5. The first aid kit is mounted two meters off the ground, making it difficult for all of the workers to reach. [HSE.1, HSE.6]
6. The factory does not investigate or keep records of work-related injuries, fatalities, accidents, and incidents. In addition, the factory does not keep records of workers' illnesses. [HSE.1, HSE.3]
7. The factory does not provide the relevant workers with ongoing training on working at heights or handling and storing materials. [ER.1, ER.15, HSE.1]
8. The factory was not able to provide evidence that they train workers on the use and maintenance of Personal Protective Equipment (PPE). [ER.1, HSE.1, HSE.8]
9. The following Health & Safety assessments were conducted by the factory manager instead of an authorized laboratory or entity:
  - a. The fire risk assessment;
  - b. The structural diagnosis;
  - c. The lighting assessment; and
  - d. The noise level assessment. [HSE.1, HSE.5, HSE.13]

#### Local Law or Code Requirement

Mexican Official Norm NOM-017-STPS-2008 Articles 5.6; Mexican Official Norm NOM-029-STPS-2011 Article 4.15; Mexican Official Norm NOM-006-STPS-2014 Article 7.7.1 (a); Mexican Official Norm NOM-019-STPS-2011 Article 10.1; Mexican Official Norm NOM-009-STPS-2011 Article 5.13; Mexican Official Norm NOM-006-STPS-2014 Article 5.11; Mexican Official Norm NOM-001-STPS-2008 Article 7.1.1; Mexican Official Norm NOM-030-STPS-2009 Articles 4.6 and 4.8; Mexican Official Norm NOM-001-STPS-2008 Article 5.2, Mexican Official Norm STPS-011-2001 Article 5.2, Mexican Official Norm NOM-025-STPS-2008 Article 5.5; Mexican Official Norm NOM-002-STPS-2010 Annex A.1.2; Mexican Official Norm NOM-005-STPS-1998 Articles 5.5 and 5.17; FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.15; Health, Safety & Environment Benchmarks HSE.1, HSE.3, HSE.5, HSE.6, HSE.8, HSE.9, HSE.10, and HSE.13)

#### Recommendations for Immediate Action

1. Install conditioning ducts for cables and wires.
2. Label the container of the cleaning chemical located next to the emergency exit in the corridor leading to the machinery warehouse. In addition, provide the MSDS for all chemicals.
3. Mount the first aid kits at a reasonable height for all workers to access.
4. Ensure that all relevant workers receive ongoing training from accredited personnel regarding working safely at heights.
5. Ensure that workers receive training from accredited personnel regarding PPE usage and maintenance. Keep records of this training.
6. Commission an authorized laboratory or entity to carry out a fire risk assessment, structural diagnosis, lighting assessment, and noise level assessment.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1. Install conditioning ducts for cables and wires.
2. Label the container of the cleaning chemical located next to the

emergency exit in the corridor leading to the machinery warehouse. In addition, provide the MSDS for all chemicals.

3. Mount the first aid kits at a reasonable height for all workers to access.

4. Ensure that all relevant workers receive ongoing training from accredited personnel regarding working safely at heights.

5. Ensure that workers receive training from accredited personnel regarding PPE usage and maintenance. Keep records of this training.

6. Commission an authorized laboratory or entity to carry out a fire risk assessment, structural diagnosis, lighting assessment, and noise level assessment.

## Action Plan no 2.

### Description

The factory must identify the manager or consider having an experienced 3<sup>rd</sup> party who/that will:

1) develop Health, Safety, and Environmental policies containing: a) the framework for a comprehensive health, safety, and environmental management system; b) are clear and regularly tested and reviewed; c) details factory's responsibilities; d) workers' rights and duties; d) responsibilities of designated personnel; e) procedures that enable workers to raise health, safety, and environmental concerns; f) procedures for reporting death, injury, illness and other health and safety issues (for instance, near-miss accidents) and environmental emergencies and, g) Protection to workers who allege health, safety, and environmental violations.

2) there is a manager/team responsible/accountable for safely operating and maintaining the facility including all aspects of Occupational Safety, Health and Fire Safety.

Please send us a copy of the updated Health and Safety policies and procedures, and name/title of the person responsible for the occupational health and safety in the factory.

## FINDING TYPE: Environmental Protection

### Finding Explanation

1. The factory does not have the original copies of the hazardous waste collection documents. [ER.2, HSE.2, HSE.4]

### Local Law or Code Requirement

Regulations of the General Law for the Prevention and Integral Management of Waste, Article 46 Clause 4; FLA Workplace Code (Employment Relationship Benchmark ER.2; Health, Safety, & Environment Benchmarks HSE.2 and HSE.4)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

The factory must identify the person who will be responsible for ensuring that the company representatives have available, onsite, original copies of the hazardous waste collection documents.

Please send evidence that the factory has available original documents for our review.

## FINDING NO.11

## SUSTAINABLE IMPROVEMENT REQUIRED

## FINDING TYPE: Compensation

### Finding Explanation

1. The payslips provided to migrant workers are not in the workers' native languages (Chinese and Korean). [C.17]

2. 80% of the supervisors and mechanics in the factory are migrant workers. These positions receive a higher salary than the operative ones. As there are no policy or procedures on Personnel Development, it is unclear if local workers have the same opportunities to be considered for these higher-paying positions. [ER.30, ND.2]

### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.30; Compensation Benchmark C.17; Nondiscrimination Benchmark ND.2)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

The facility shall identify the manager who will be responsible for ensuring that payslips are also available in workers' native languages including: Chinese and Korean. Also, ensure that migrant workers have the same opportunities as local workers; including the considerations for higher paying jobs/positions. Please send evidence of the implementation is provided to the Under Armour and Nike Sustainability Teams.

## FINDING NO.12

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Workplace Conduct & Discipline

##### Finding Explanation

1. The factory conducts body searches which require both male and female workers to show their underwear. This kind of search represents an excessive invasion of workers' privacy. The searches are done in a private room, with the consent of workers, and are gender appropriate. The searches are conducted randomly even if there is no legitimate reason to do so. [H/A.10]

##### Local Law or Code Requirement

FLA Workplace Code (Harassment or Abuse Benchmark H/A.10)

##### Recommendations for Immediate Action

1. Cease the practice of regularly performing body searches that require workers to show their underwear. Only undertake body searches when there is a legitimate reason to do so and upon consent of the workers, unless a state official with the power to do so (e.g. a police officer) has ordered the search.

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

The factory must identify the person/team who will be responsible to ensure that the factory discontinues the practice of workers having to show their under garments during patdowns that take place in a private location.

Leotex senior management to work, in collaboration with, Nike and Under Armour representatives to identify mechanisms to deter components/trims, and garments theft in the factory. In the meantime, please send to us your updated pat-down procedures and supporting documentation about its communication to the workforce.

#### Action Plan no 2.

##### Description

The facility shall identify the manager who will be responsible for ensuring that implementation of all listed requirements is completed in a timely and effective manner, and that evidence of the implementation is provided to the Under Armour Sustainability Team. This manager must ensure that at a minimum: Body searches and physical pat downs are only undertaken when there is a legitimate reason to do so and upon consent of workers, unless a state official with the power to do so (e.g. police officer) has ordered the search. Body searches are not undertaken in public and the person who undertakes the search is of the same sex as the person who is being searched.