



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Zephyr Graf-X

COUNTRY: Vietnam

ASSESSMENT DATE: 12/27/18

ASSESSOR: Social Compliance Services Asia

PRODUCTS: Headwear

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 does not have a policy or procedures on Personnel Development. [ER.1, ER.28, ER.29, and ER.30]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.28, ER.29, and ER.30)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Will need to develop a policy and/or procedure on Personnel Development.

Planned completion date

01/25/19

Company Action Plan Update

1. Job skill training for Personnel Development is now scheduled through out the year and will be conducted in-house by supervisory staff, and also by 3rd party Trainers.

FINDING NO.2

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; Retrenchment; Industrial Relations; Workplace Conduct & Discipline; Grievance System; and Environmental Protection. [ER.1, ER.15, ER.25, ER.28]

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

3. The factory does not provide specific training to the relevant HR personnel and administrative staff on Workplace Conduct & Discipline. [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

1. Will need to develop and provide an ongoing training program for their workers on Employment Functions.
2. Will need to develop and provide an ongoing specific training to the relevant managers and supervisors on the Employment Functions.
3. Will need to develop and provide specific training to the relevant HR personnel and administrative staff on Workplace Conduct and Discipline.

Planned completion date

01/25/19

Company Action Plan Update

1. On Feb. 14th 2019, all workers had been provided training on the Employee Functions based on the latest update to the factories policies and procedures. The factory will continue/hold this training as an annual training program for all workers.
- 2-3. There has been specific training for relevant managers/supervisors and HR staff on Employment Functions and Workplace Conduct and Discipline. The training will be periodically conducted through each year annually.

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. The factory does not communicate with the general workforce regarding its policies and procedures or their updates across all 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

1. The factory will need to develop a procedure to communicate with the general workforce regarding its policies and procedures of their updates across all Employment Functions.

Planned completion date

01/25/19

Company Action Plan Update

1. The policies and procedures have been revised and updated, and have been communicated to the workforce thru the Union and Factory representative.

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

1. The factory does not periodically review and 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

1. Will need to develop a procedure and policy to periodically review and update factory's policies and procedures on any of the Employment Functions.

Planned completion date

01/25/19

Company Action Plan Update

1. Based on local law, the factory's policies and actual situations the factory has made an annual review and updated policies and procedures on Employment Functions.

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. Records of disciplinary actions are not kept in workers' personnel files. [ER.2, ER.27]

2. The Workplace Conduct & Discipline procedure do not include an appeal process. [ER.1, ER.27]

Local Law or Code Requirement

Circular 23/2014/TT-BLDTBXH, Articles 7.2 and 7.3; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.2, and ER.27)

COMPANY ACTION PLANS

Action Plan no 1.

Description

2. The Workplace Conduct & Discipline procedure will need to be updated to include an appeal process.

Planned completion date

01/25/19

Company Action Plan Update

2. The appeal process has been added into the Workplace Conduct & Discipline procedures. The Workplace Conduct and Discipline procedures will be periodically monitored and reviewed in order to keep procedures up to date.

Action Plan no 2.

Description

1. Records of disciplinary actions will need to be kept in workers personnel files.

Planned completion date

01/25/19

Company Action Plan Update

1. Supervisory staff have been informed of proper disciplinary procedures and will keep records of disciplinary actions of workers in their personnel files.

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. Workers' daily overtime hours exceed the legal limit of four hours per day. 40% of the cutting and sewing workers worked four and a half hours of overtime per day in January 2018. [HOW.1, HOW.8]
2. Workers' total weekly working hours exceed 60 hours per week. 40% of cutting and sewing workers worked 66 hours per week in January and November 2018. [HOW.1, HOW.8]
3. Embroidery workers who switch from the night shift to the day shift are not guaranteed at least 24 consecutive hours rest from 12:00 pm on Sunday to 12:00 pm on Monday. For instance, workers who leave work at 5:30 am on Sunday are required to go back to work at 7:30 am on Monday. As a result, they do not receive 24 consecutive hours of rest in every seven-day period. [HOW.1, HOW.2]
4. 103 embroidery workers who work the night shift do not receive a 45-minute break during their shift. [HOW.1, HOW.3]

Local Law or Code Requirement

Labor Code 10/2012/QH13, Article 106 Clause 2 Item b and Article 110 Clause 1; FLA Workplace Code (Hours of Work Benchmark HOW.1, HOW.2, HOW.3, and HOW.8)

Recommendations for Immediate Action

1. Do not allow workers' daily overtime hours to exceed the legal limit of four hours per day.
2. Do not allow workers' total weekly working hours (including regular and overtime hours) to exceed 60 hours per week.
3. Provide all workers, including workers who switch from the night shift to the day shift, at least 24 consecutive hours of rest in every seven-day period.
4. Provide night shift workers a break in the middle of their shift that lasts at least 45 minutes. Count this break time as part of the working hours, as required by law.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Do not allow workers daily overtime hours to exceed the legal limit of 4 hours a day.
2. Do not allow workers total weekly working hours (including regular and overtime hours) to exceed 60 hours a week.

Planned completion date

01/25/19

Company Action Plan Update

1-2. The vendor and management team plan to reduce the working time in order to reduce overtime hours in accordance with the legal limitations.

To do this:

-The Factory has created an OT management policy that the top managers will receive and review reports weekly and monthly, ensuring overtime hours meet within the OT limits.

- The factory will work closely with the Vendor for the orders quantity per month and year and reschedule production plan to make sure that working hours comply to legal working hours.
- A compliance officer has been assigned to monitor execution of factory and report directly to factory director if any violations occur.

Action Plan no 2.

Description

3. Provide all workers. including workers who switch from the night shift to the day shift, at least 24 consecutive hours of rest in every 7 day period.
4. Provide night shift workers a break in the middle of their shift that lasts at least 45 minutes. Count this break time as part of the working hours, as required by law.

Planned completion date

01/25/19

Company Action Plan Update

3. Embroidery workers working night shift from 18.30 to 3.30 am and OT from 3.30 am to 5.30 am on Sunday, after that they will go home and take their rest. They will to work and change day shift from 7.30 am on Monday, guaranteeing at least a 24 hours break as required.

4. The factory has reimbursed all workers who were not paid for their 45 min break, and whom were entitled, have been paid in full.

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory does not calculate severance pay correctly. For example, one sampled worker who worked at the factory for 20 months was underpaid by VND 485,129 (USD 20.89). This worker was entitled to two years worth of severance pay calculated at 3,881,033 (USD 167.13); instead, they received 21 months worth of severance pay calculated at VND 3,395,904 (USD 146.23). According to local law, workers should receive 50% of one month's basic salary for each year worked at the factory. A period of work from one full month to under six months shall be rounded up to half of a year. A period from a full six months to under one year shall be rounded up to one year. [ER.18, ER.22, C.1, C.5, C.6]

2. 20% of the embroidery workers work the night shift on Sunday (6:30 pm-3:30 am) and then work four and a half hours during the day on Monday (7:30 am to 12:00 pm). The factory pays these workers 100% of their salary for the four and a half hour shift on Monday; however, they are entitled to 200% of their salary for working overtime on their rest day. [ER.18, C.1, C.5, C.7]

Local Law or Code Requirement

Labor Code 10/2012/QH13, Article 48 and Article 97 Clause 1; FLA Workplace Code (Employment Relationship Benchmarks ER.18 and ER.22; Compensation Benchmarks C.1, C.5, C.6, and C.7)

Recommendations for Immediate Action

1. Calculate severance pay according to legal requirements.
2. Compensate workers for overtime work on their rest day at the legally required overtime wage rate.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Calculate severance pay according to legal requirements.
2. Compensate workers for overtime work on their rest day at the legally required overtime wage rate.

Planned completion date

01/25/19

Company Action Plan Update

1. Workers have been informed of how severance pay is calculated, and will be paid correctly as required legally.
2. Workers will be compensated for overtime at required legal wage rate.
- (Factory has also advised that they will only have nights shift on Saturday and finish 5:30 am on Sunday morning, no Sunday night shift.)

Action Plan no 2.

Description

2. Will need to compensate workers for overtime work on their rest day at the legally required overtime wage rate.

Planned completion date

01/25/19

Company Action Plan Update

2. All workers who were entitled to OT reimbursement from Jan-Dec 2018, have been compensated as of 03/12/2019. Due to file size, only attached Jan 2018 time record as reference. If needed, can provide all months time records if requested.

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The factory does not provide any office space for the unions. [FOA.15]
2. The factory does not obtain workers' consent to deduct trade union fees from their wages. Instead, they make an announcement to inform workers about the deductions. [FOA.24, C.11]
3. 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]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.25; Freedom of Association Benchmark FOA.24; Compensation Benchmark C.11)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. There will need to be an office space provided for the unions.
2. A policy/procedure will need to be developed to obtain workers consent to deduct union fees from their wages.

Planned completion date

01/25/19

Company Action Plan Update

1. There is now a dedicated office space at the factory for the union.
2. A policy has been created and presented to the workers, in order to receive an authorization from the workers, to deduct union fees from their wages.

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The floor markings and directional arrows in the ironing area and packing area are faded. [HSE.1, HSE.5]
2. There is no evacuation map posted in the finished goods warehouse. In addition, none of the evacuation maps posted in the factory clearly indicate the viewer's location and three evacuation maps in the packing area, sewing area, and material warehouse do not reflect the actual layout of the factory. [HSE.1, HSE.5]
3. There is only one emergency exit door in the finished goods warehouse. The warehouse is around 180 square meters and at least five workers were working there at the time of the assessment. [HSE.1, HSE.5]
4. One of the two emergency exit doors in the drying room was locked at the time of assessment. [HSE.1, HSE.5]
5. The following fire-fighting equipment and elements of a safe evacuation are obstructed:
 - a. Several emergency exit routes in the ironing area and material warehouse are obstructed by chairs, goods, and a trolley;
 - b. One emergency exit door in the maintenance room is obstructed by a machine;
 - c. Four fire extinguishers in the packing area and sewing area are obstructed by shelves, goods or cartons;
 - d. Two fire alarm buttons in the packing area and sewing area are obstructed by shelves, goods or cartons;
 - e. One fire hose in the finished good warehouse is obstructed by shelves, goods or cartons; and
 - f. One evacuation map in the packing area is obstructed by shelves, goods or cartons. [HSE.1, HSE.5, HSE.6]
6. The factory has not conducted fire drills for the embroidery night shift workers or the management dormitory where four supervisors and managers live. [HSE.1, HSE.5, HSE.25]
7. The factory's Health & Safety procedures do not include steps to ensure that all special categories of workers and children in childcare facilities are safely evacuated. [ER.1, ER.31]

Local Law or Code Requirement

National Standard TCVN 2622/1995, Article 7 Clauses 5 and 7; Decree 79/2014/ND-CP, Article 7 Clause 1 and Article 21 Clause 4; Vietnamese Code QCVN 06/2010/BXD, Article 3 Clause 3 Point 1; Decision 439/BXD-CSXD, Items 11.6.1 and 11.6.1.4; Decision 2726/QĐ-BKHCN, National Standard TCVN 3890/2009, Article 5 Clause 1 Point 1; FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.31; Health, Safety & Environment Benchmarks HSE.1, HSE.5, HSE.6, and HSE.25)

Recommendations for Immediate Action

1. Repaint the floor markings and directional arrows in the ironing area and packing area so that they are clearly visible.
2. Post an evacuation map in the finished goods warehouse. Update the evacuation maps to ensure that they all clearly indicate the viewer's location and reflect the actual layout of the factory.
3. Provide an additional emergency exit door in the finished goods warehouse.
4. Do not lock the emergency exit doors during working hours.
5. Remove obstructions from emergency exit routes, emergency exit doors, fire extinguishers, fire alarm buttons, fire hoses, and evacuation maps. Monitor these areas and to ensure that they remain clear.
6. Conduct fire drills for the embroidery night shift workers and staff who are living in the management dormitory.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Repaint the floor markings and directional arrows in the ironing area and packing area so that they are clearly visible.
2. Post an evacuation map in the finished goods warehouse. Update the evacuation maps to ensure that they all clearly indicate the viewer's location and reflect the actual layout of the factory.
4. Do not lock the emergency exit doors during working hours.

5. Remove obstructions from emergency exit routes, emergency exit doors, fire extinguishers, fire alarm buttons, fire hoses, and evacuation maps. Monitor these areas and to ensure that they remain clear.

6. Conduct fire drills for the embroidery night shift workers and staff who are living in the management dormitory.

Planned completion date

01/25/19

Company Action Plan Update

1. New floor markings and directional arrows have been installed.

2. The maps have been updated to reflect the actual layout along with the viewers locations, and is easily recognizable.

4. The workers/staff have been advised that all doors will need to remain unlocked during working hours. Compliance staff will continue to monitor for compliance.

5. a-f: All fire safety equipment is clearly marked and all obstructions have been removed away from all equipment and signs.

6. A fire drill was performed for all night shift embroidery workers and staff living in management dormitory. Drill was performed on 01/19/2019.

Action Plan no 2.

Description

3. Provide an additional emergency exit door in the finished goods warehouse.

Planned completion date

01/25/19

Company Action Plan Update

3. The additional exit door requires remodeling work, and a contractor will need to be contacted and brought into the factory.

Action Plan no 3.

Description

7. Factory's Health & Safety procedures need to be revised to include the steps to ensure that all special categories of workers and children in childcare facility are safely evacuated.

Planned completion date

01/25/19

Company Action Plan Update

7. The procedures are in the progress of being revised.

Action Plan no 4.

Description

3. Provide an additional emergency exit door in the finished goods warehouse.

Planned completion date

01/25/19

Company Action Plan Update

3. It has been advised that removing wall to construct stairway may cause structural concerns, therefore the alternate solution is to use the exit at the opposite position and installing exit sign and handle bars on walkway.

FINDING NO.10

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. There is no first aid kit in the finished goods warehouse. [HSE.1, HSE.6]

2. The drinking water test only covers five indexes instead of more than 20 indexes as required by law. [HSE.1, HSE.23]

Local Law or Code Requirement

Circular 19/2016/TT-BYT, Article 6; Circular 09/2000/TT-BYT, Appendix 2; QCVN 6-1:2010/BYT, Appendix III, Circular 34/2010/TT-BYT; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.6, and HSE.23)

Recommendations for Immediate Action

1. Provide a first aid kit for the finished goods warehouse.
2. Test the drinking water for all indexes as required by law.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Provide a first aid kit for the finished goods warehouse.
2. Test the drinking water for all indexes as required by law.

Planned completion date

01/25/19

Company Action Plan Update

1. A new first aid kit has been installed in the finished goods warehouse.
2. A drinking water test has been completed for all indexes as required.

FINDING NO.11

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. There are several electrical wires running through the ironing area which could cause workers to trip. [HSE.1, HSE.13]
2. Four electrical boxes in the sewing area, finished goods warehouse, material warehouse, and sample room are missing insulated mats. [HSE.1, HSE.13]
3. Flammable materials (a waste basket, wooden tables, and paper) are located next to the main electrical box in the cutting area. [HSE.1, HSE.13]

Local Law or Code Requirement

Electricity Law 28/2004/QH11, Article 57 Clause 2; National Technical Regulations on Electrical Safety QCVN 01:2008/BCT, Article 5; Labor Code 10/2012/QH13, Article 138 Clause 1 Item b; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1 and HSE.13)

Recommendations for Immediate Action

1. Properly maintain all electrical wires.
2. Provide insulated mats for all electrical boxes.
3. Remove flammable materials from near the electrical box. Monitor the area to ensure that it remains clear.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Properly maintain all electrical wires.
2. Provide insulated mats for all electrical boxes.
3. Remove all flammable materials from and near all the electrical boxes.

Planned completion date

01/25/19

Company Action Plan Update

1. The electrical wires have all been properly maintained in the ironing room.
2. Insulated mats have been installed around all electrical boxes.
3. All flammable materials have been removed from and near all electrical boxes.

Compliance team will continue to monitor to ensure compliance.

FINDING NO.12

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The workers who lift goods in the warehouses do not have back-support safety belts. [HSE.7, HSE.17]
2. None of the cutting workers use their ear plugs while working. [HSE.1, HSE.8]
3. 10% of the cutting and embroidery workers do not wear their masks while working. [HSE.1, HSE.8]
4. The traffic lanes and walking paths are not clearly marked. [HSE.14]
5. There are no instructions posted beside the ironing machine's emergency button. [HSE.1, HSE.14]
6. The ironing workers do not have anti-fatigue mats. [HSE.1, HSE.17]

Local Law or Code Requirement

Labor Code 10/2012/QH13, Articles 138 and 139; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.7, HSE.8, HSE.14, and HSE.17)

Recommendations for Immediate Action

1. Provide back-support safety belts to the workers who lift goods in the warehouses.
2. Provide the appropriate PPE to all workers. Train workers on the proper use of PPE and monitor to ensure compliance.
3. Clearly mark the traffic lanes and walking paths.
4. Post instructions for the ironing machine's emergency button in the local language.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Provide back-support safety belts to the workers who lift goods.
2. Provide appropriate PPE to all workers. Train workers on the proper use of the PPE and monitor to ensure compliance.
3. Clearly mark the traffic lanes and walking paths.
4. Post instructions for the ironing machine's emergency button in the local language.

Planned completion date

01/25/19

Company Action Plan Update

1. All workers who lift goods have been provided back-support belts.
2. All workers have been provided PPE and have been given training on the proper use. Compliance team will continue to monitor to ensure PPE is being utilized.
3. Traffic lanes and walking paths have been clearly marked.
4. The instructions for the emergency stop on the ironing machine has been posted in the local language.
5. All ironing workers have been provided anti-fatigue mats.

FINDING NO.13

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The Environmental Protection procedures do not include:
 - a. Procedures on managing the environmental impact within the factory;
 - b. Procedures for reporting environmental emergencies;
 - c. Steps enabling workers to raise environmental concerns;
 - d. Protection against retaliation for workers who allege environmental violations. [ER.1, ER.31, HSE.5]
2. The factory does not have a Solid Waste Monitoring Assessment Report as required in the Environment Impact Evaluation Report. [HSE.1]

Local Law or Code Requirement

Decree 18/2015/ND-CP, Article 16; Environmental Protection Law, Articles 26 and 27; FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.31; Health, Safety & Environment Benchmarks HSE.1 and HSE.5)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Will need to update procedures for The Environmental Protection to include all required procedures.

Company Action Plan Update

1. The Environmental Protection procedures have been updated to include all required procedures.

Action Plan no 2.

Description

2. Will need to provide a Solid Waste monitoring Assessment Report, as it is required in Environment Impact Evaluation Report.

Action Plan no 3.

Description

2. The factory will need to provide a Solid Waste Monitoring Assessment Report, as it is required in the Environment Impact Evaluation Report.

Company Action Plan Update

2. A waste monitoring assessment report was sent to Bac Giang Environment Resources, the same required in the Environment Impact Evaluation Report. Please see report attached.