



COMPANIES: Team Beans & Forever Collectibles

COUNTRY: China

ASSESSMENT DATE: 06/26/19

ASSESSOR: Openview

PRODUCTS: Collectibles [such as figurines, coins, spoons, mugs]

NUMBER OF WORKERS: 100

FLA Comments

Team Beans exited this factory in July 2019, due to the factory's parent company shifting production to Cambodia. Prior to exiting the factory the Team Beans made up less than 1% of the production at the factory, therefore, their exit from the factory did not increase the risk of retrenchment.

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.

FLA Code Element	Number of Violations
Compensation	8
Hours of Work	6
Employment Relationship	23
Health, Safety, and Environment	24
Nondiscrimination	1
Freedom of Association	4

Findings and Action Plans

FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory has not hired any disabled workers, which is a violation of legal requirements that state at least 1.5% of the total workforce should be composed of disabled workers. Although the factory contributes to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law, this practice carries the risk of discrimination based on FLA Workplace Code of Conduct and Benchmarks. [ND.2]
2. The factory has not conducted performance reviews for any workers. [ER.29.1]
3. Workers do not receive a copy of the workplace rules or written documentation that substantiates all the issues covered in orientation. [ER.15.3]

Local Law or Code Requirement

Regulations on the Employment of Persons with Disabilities, Article 8. FLA Workplace Code (Non-discrimination Benchmark ND.2; Employment Relationship Benchmarks ER.15 and ER.29)

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The payment system including minimum wage, overtime premium and paid leaves could not be verified accurately during the assessment. The payrolls are calculated based on the inaccurate time records, which cannot reflect the actual payment status. [C.15]
2. The factory has not taken reasonable effort to ensure that workers understand their compensation clearly, including how wages are

calculated. For instance, the wage structure defined in compensation procedure and labor contracts is “Regular Wage based on Hourly Rate + Overtime Compensation + Other Allowances”. However, all interviewed workers reported that they were only paid total piece rate wages. The factory explained that they paid workers either total piece rate wages or “Regular Wage based on Hourly Rate + Overtime Compensation + Other Allowances” as defined in compensation procedure and labor contracts, whichever was higher. In addition, the factory management could not provide detailed piece rate records to explain how to calculate the piece rate wages. About 80% of interviewed workers do not know how to calculate piece rate wages. [C.17.1]

Local Law or Code Requirement

FLA Workplace Code (Compensation Benchmarks C.15 and C.17)

Recommendations for Immediate Action

1. Maintain complete and accurate payroll records which are linked with workers’ actual working hours.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The contribution base of the five types of social insurances is not in line with legal requirements. The factory contributes to work-related injury, medical, maternity, unemployment and pension insurances based on the local minimum requirement of CNY 3,773 (USD 548) per month for local workers and CNY 3,234 (USD 469) per month for non-local workers, which is not in compliance with legal requirement of contribution based on worker’s average monthly wage of last year. About 50% of workers’ average monthly wages of last year were higher than local minimum contribution base, ranging from CNY 4,000 (USD 581) to CNY 6,000 (USD 871). [C10.1]

2. The factory does not contribute to the legally required Housing Provident Fund for any workers. [ER.22.1]

3. According to Human Resource (HR) administrative handbook and worker interviews, the factory does not take workers’ external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by law. [C.6]

4. There are no written prenatal leave policies or procedures. As a result, the factory did not provide paid leave for prenatal health examinations to one pregnant worker currently working in the factory. [ND.8.1]

Local Law or Code Requirement

Social Insurance Law of the PRC, Article 12 and Article 58; Regulations on Management of Housing Provident Fund, Article 2, Article 3, Article 15 and Article 16; Regulations on Annual Leave for Employees, Article 2; Special Rules on the Labor Protection of Female Employees, Article 6. FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmarks C.6 and C.10; Non-discrimination Benchmark ND.8)

Recommendations for Immediate Action

1. Contribute to social insurance based on worker’s average monthly wage of last year.
2. Provide all workers with legally required Housing Provident Fund.
3. Calculate annual leave based on worker’s cumulative working experience (working age).
4. Provide paid leave for prenatal health examinations to pregnant workers.

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. Time records are inaccurate because there are discrepancies among the provided time records, leave records, and worker interviews. As a result, working hour system including weekly working hours and consecutive working days cannot be verified in the assessment.

2. Leave records indicated that one sampled worker asked for personal leave from June 1 to 7, 2019. However, the provided electrical time records showed that this worker had complete attendance records with time in and time out in five out of the seven days leave

period. Another sampled worker asked for marriage leave from January 25 to 30, 2019. However, the provided electrical time records showed that this worker had complete attendance records with time in and time out in three out of the six days leave period. Both workers were interviewed and reported that they did take the leave as per their leave records. Factory management provided no explanation to this issue.

3. The assessors found an additional set of time records for May 2019 in Human Resource staff's computer. There are some discrepancies between the two sets of time records. For example, the provided time records indicated that no workers came to work on any Sundays or after 20:00 at night during the last 12 months. However, the other set of time records in Human Resource staff's computer indicated two workers worked on May 5 and 26, 2019 (Sundays) and another worker worked till about 22:00 on three consecutive nights from May 28 to 30, 2019. Factory management and Human Resource staff provided no explanation to this issue. [ER.23]

4. According to the provided time records for the period from May 2018 to June 25, 2019 as well as worker interviews, monthly overtime for 95% of workers exceeded the legal limit of 36 hours per month in all reviewed months, except February 2019. Half of the workers had a maximum of 82 monthly overtime hours in March 2019. [HOW.8.1].

5. The factory production plan is based on 48-58 hours per week. The factory management sets production targets, piece rates, incentive and production system at a level that workers need to work 8-18 overtime hours per week. [ER.24]

Local Law or Code Requirement

China Labor Law, Article 41. FLA Workplace Code (Employment Relationship Benchmarks ER.23 and ER.24; Hours of Work Benchmark HOW.8)

Recommendations for Immediate Action

1. Have a reliable time recording system and maintain complete and accurate time records.
2. Ensure workers' overtime does not exceed 36 hours in a month.
3. Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The factory has a trade union that was established in 2017 under the ACFTU (All China Federation of Trade Unions). There was no vote by the workers to join the union, instead management of the factory affiliated the factory with the ACFTU.
2. The factory has not taken efforts to introduce its Freedom of Association Policy or trade union to workers.
3. None of the interviewed workers knows if they are members of the trade union. Additionally, 90% of the interviewed workers are not aware of the union representatives, and none of them has ever participated in the union representative elections. [FOA.11]
4. There were three union representatives in trade union, however two union representatives resigned in 2018. These representatives have not been replaced. The remaining union chairman is the Sales Manager and top factory management. [FOA.11]
5. FLA Comments: 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 (Freedom of Association Benchmarks FOA.2 and FOA.11)

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

1. According to factory management interview, the factory provides three channels for workers to file complaints, which include writing suggestion letters to supervisors or management, directly speaking to supervisors or management and anonymously reporting through suggestion box. However, according to worker interviews, workers are only informed of directly speaking to supervisors or management. Workers are not aware that they can file complaints by writing suggestion letters to supervisors or management, or anonymously reporting through suggestion box. Additionally, the procedure is posted near suggestion box, and 80% of the interviewed workers do not understand the grievance resolution process. [ER.25.3.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.25)

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The fire brigade does not have appropriate personal protective equipment (PPE) to fight fires (breathing apparatus, firefighter uniform, fire fighter helmet and fire fighter gloves). [HSE.5.1]
2. Empty chemical containers are stored under the stairwell on the first floor of the production building. [HSE.5.1]
3. The factory does not have a visual alarm system in the polishing room where there is a high noise level. [HSE.5.1]
4. The emergency alarm does not have a backup battery. [HSE.5.1]
5. The contact information for medical response is not located near each phone or throughout the factory. [HSE.6.1]

Local Law or Code Requirement

The Code of Design on Building Fire Protection and Prevention (GB50016-2014), Article 6.4.1. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.5 and HSE.6)

Recommendations for Immediate Action

1. Provide appropriate personal protective equipment (PPE) to fire brigade to fight fires.
2. Remove the empty chemical containers from the stairwell.
3. Install a visual alarm system in polishing room where noise level is high.
4. Install a backup battery for the emergency alarm system.

FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Although the factory provided face masks and gloves, three gluing workers were not using them properly during the assessment. [HSE.8]
2. The factory does not take proactive steps to reduce repetitive-motion stress injuries of workers. 80% of production sitting workers are provided with nonadjustable chairs with no backrests. [HSE.17.1]

3. The factory has not conducted assessments for determining thermal comfort problem areas. [HSE.13]
4. The traffic lanes and walk paths are not marked in the factory compound. The factory is located on the 2nd, 3rd and 5th floor of one building inside the industrial park where there are no traffic lanes or walk paths in the public area. [HSE.14.1]
5. Loading areas with vertical height of 1.4 meters are not equipped with guardrails. [HSE.14.1]
6. The factory does not provide safety information to contractors. [HSE.1]
7. The factory provides occupational health examination for a total of 22 workers with hazardous exposure to chemicals or noise. However, the factory does not provide pre-job or post-job occupational health examination to these workers. [HSE.1]
8. The factory has not conducted pre-assessment of occupational disease hazards, assessment of effects of occupational disease hazards control or assessment of current condition of occupational disease hazards since moved to current address in 2006. [HSE.1]

Local Law or Code Requirement

The Law of the China on Work Safety, Article 42; The China Law of Prevention and Control of Occupational Diseases, Article 35; Law of the People's Republic of China on the Prevention and Control of Occupational Diseases, Articles 17 and Article 18. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.8, HSE.13, HSE.14 and HSE.17)

Recommendations for Immediate Action

1. Train and monitor workers to use Personal Protection Equipment (PPE) properly.
2. Mark traffic lanes and walking paths in the factory compound.
3. Install guardrails in loading areas.
4. Provide pre-job and post-job occupational health examination to workers with hazardous exposure to chemicals and noise.

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory does not have eyewash facilities or showers in chemical storage area. [HSE.6.1]
2. The factory has not posted Material Safety Data Sheet (MSDS) in the painting area where chemicals are used. [HSE.10.1]
3. The factory uses drinking water bottles as chemical dispensing containers in the working areas. No safety labels are posted on 80% of chemical containers. [HSE.9.1]
4. The factory does not provide soap or hand dryers in the toilets of the production area. [HSE.19]
5. Drinking water is placed at the working stations where chemicals are used in the painting areas, which carries the risk of contamination with exposure to chemicals. [HSE.23.1.2]

Local Law or Code Requirement

The China Law of Prevention and Control of Occupational Diseases, Article 25; The Regulation of Chemical Safety Usage in Workplace, Article 12; The Regulation of Chemical Safety Usage in Workplace, Article 19; The Hygienic standards for the Design of Industrial Enterprises GBZ 1-2010, Article 7.1.1 and Article 7.3.2. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.6, HSE.9, HSE.10, HSE.19 and HSE.23)

Recommendations for Immediate Action

1. Install eyewash facilities and showers in chemical storage area.
2. Post MSDS in working areas where chemicals are used.
3. Use appropriate containers for chemicals and post safety labels on chemical containers.
4. Provide soap and hand dryer in the toilets.

5. Place drinking water away from chemicals.

FINDING NO.10

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The factory does not have secondary containment for 80% of the chemical containers in working areas and color mixing area. [HSE.9.1]
2. The factory stores empty chemical containers under the stairwell on the first floor of the production building with no protective measures. [HSE.1]
3. The factory does not post labels on the hazardous waste storage containers. [HSE.9.1]

Local Law or Code Requirement

The Regulation for Safety of Dangerous Chemical, Article 20; The Standard for Pollution Control on Hazardous Waste Storage (GB 18597-2001), Article 6.2.4, Article 6.2.5 and Article 6.2.6. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1 and HSE.9)

Recommendations for Immediate Action

1. Provide secondary containment for all chemical containers.
2. Store hazardous wastes in a designed place with secondary containment.
3. Post labels on hazardous waste storage containers.

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. The factory does not have written policies or procedures on Personnel Development, which should include: Policies and procedures that encourage ongoing training with the goal of raising or broadening workers' skills so they can advance in their careers. Policies and procedures outlining the process for performance reviews. Policies and procedures on promotion, demotion and job reassignment. [ER.28.1, ER.29.1, ER.30.1]
2. The factory does not have policies or procedures governing Retrenchment. [ER.32.1]
3. The factory does not have procedures for workers to raise health, safety and environmental concerns. [ER.31.2.4]
4. The factory does not have procedures protecting workers against retaliation for raising health, safety and environmental concerns. [ER.31.2.6]
5. The disciplinary system does not include workers' right to have a third-party witness present during imposition of the disciplinary action. [ER.27.4]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.27, ER.28, ER.29, ER.30, ER.31 and ER.32)

FINDING NO.12

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

1. The factory has not conducted management or internal reviews to ensure that policies and procedures are updated according to local laws, FLA Workplace Code and Employment Functions. [ER.1.3]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1)

FINDING NO.13

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory does not provide specific training to relevant supervisors on the following Employment Functions: Personnel Development, Industrial Relations, Grievance System, Workplace Conduct & Discipline and Retrenchment. In addition, the factory does not provide training on Workplace Conduct & Discipline to Human Resource staff and administrative staff. [ER.17.1]

2. The factory does not provide orientation training to new workers on Personnel Development, Retrenchment, or Industrial Relations. [ER.15.1]

3. The ongoing training for workers does not include Personnel Development, Retrenchment, or Industrial Relations. [ER.1.2]

4. The factory does not provide training to workers on ergonomics, including lifting techniques. [ER.17.2]

5. The factory does not provide safety training on lockout/tagout to designated workers. [ER.14.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.14, ER.15 and ER.17)

FINDING NO.14

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. The worker integration component is missing from all Employment Functions. This indicates that the factory has not established procedures to receive worker input/feedback on the creation, implementation, and revision of its policies and procedures. Furthermore, workers are neither systematically integrated, nor consulted in the decision-making processes. [ER.1.3]

2. The factory does not communicate with workers regarding Personnel Development, Grievance System, Workplace Conduct & Discipline and Retrenchment policies or procedures as well as their updates. [ER.16.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.16)