



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Outerknown

COUNTRY: Peru

ASSESSMENT DATE: 09/10/19

ASSESSOR: Francisco Chicas

PRODUCTS: Apparel

NUMBER OF WORKERS: 81

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	3
Employment Relationship	27
Health, Safety, and Environment	14
Nondiscrimination	1
Freedom of Association	2

Findings and Action Plans

FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

The factory does not conduct performance reviews for workers. [ER.29]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.29)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Preventive Action: 1. Creation of a working group with managers and heads of area and / or hiring of an external advisor, to define what evaluations are necessary and their preparation. 2. Communication and dissemination. 2/28/20

Planned completion date

11/29/19

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. Factory has not paid the pension funds for all workers between May and July 2019, as legally required. [C.1, C.10]
2. The factory does not grant life insurance to the workers, as required by law. Based on legal requirements, all workers with four or more years of seniority should be entitled to this benefit. At the moment, forty factory workers are entitled to this benefit, but none of them have received it. [C.1, ER.22]
3. Assessors found that the factory has not fully paid the legally-required benefit known as "Compensation for Length of Service" (CTS). According to local law, all employers should deposit half of a worker's monthly salary into an individual worker's account, twice each year, in May and November. At the time of the assessment, the factory had not deposited the last CTS from May 2019 into the workers' individual accounts. [C.1, ER.22]
4. The factory has not paid workers the legally-required profit sharing benefit that all employers in Peru are required to pay on an annual basis. [ER.22, C.1]

Local Law or Code Requirement

Supreme Decree 004-98-EF, Article 49; Supreme Decree 054-97-EF, Article 34; Legislative Decree 688, Articles 1 and 7; Supreme Decree 001-97-TR, Articles 1 and 10; Peruvian Constitution, Article 29; Legislative Decree 892, Articles, 1, 2 and 6; FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmarks C.1 and C.10)

Recommendations for Immediate Action

1. Pay pending pension contributions owed to the private pension carriers, as required by law.
2. Provide workers entitled to life insurance with such benefit, as required by law.
3. Provide workers with the payment of the legally required CTS benefit from May 2019, by completing the relevant deposits on the workers' individual accounts.
4. Provide workers with the payment of the legally required profit sharing benefit.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Immediate Action: 1. The Pension Funds were canceled. Currently, only the corresponding month is due. 2. The life insurance law for workers will be hired. 3. A payment schedule was prepared to finish canceling the late CTS at the end of February 2020. 4. The company canceled the 2018 Profits for the workers.

Planned completion date

10/31/19

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The factory does not have a lactation room for lactating workers to pump and store their breast milk, as required by local law. [ND.8]

Local Law or Code Requirement

Supreme Decree 001-2016-MIMP, Article 01; FLA Workplace Code (Nondiscrimination Benchmark ND.8)

Recommendations for Immediate Action

Establish an adequate room for lactating workers to pump and store their breast milk, as required by law. Additionally, ensure that workers are aware of the room and their rights to use it.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. An environment will be set up on the second floor.

Planned completion date

10/31/19

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

The factory's disciplinary procedures are missing an appeal process and the workers' ability to bring witnesses of their choosing during the imposition of disciplinary actions. [ER.27]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.27)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Preventive Action: 1. A person responsible for following up on complaints and / or suggestions and filing them was designated.Immediate Action: 1. A file will be implemented for any complaint or suggestion of the mailbox with its respective response or solution. 2. A second mailbox will be located in the SSHH on the 5th floor.

Planned completion date
11/29/19

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

- 1) The factory does not keep records of grievances submitted by workers. Also, the factory does not inform workers how they follow up or resolve grievances. [ER.25]
- 2) The factory only has one suggestion box and it is located at the entrance to the eating area. This location is not private and does not provide confidentiality and it might refrain workers from using it. [ER.25]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.25)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Immediate Action: 1. A file will be implemented for any complaint or suggestion of the mailbox with its respective response or solution. 2. A second mailbox will be located in the SSHH on the 5th floor.

Preventive Action: 1. A person responsible for following up on complaints and / or suggestions and filing them was designated.

Planned completion date
10/31/19

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. One worker responsible for removing stains from finished pieces in the Finished Department has not been provided with gloves, as required by the Material Safety Data Sheets (MSDS) of the chemical products she uses (alcohol and benzene). [HSE.7]

Local Law or Code Requirement

Peruvian Law on Health and Safety at the Workplace (Law 29783), Articles 21 (section e) and 60; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.7)

Recommendations for Immediate Action

1. Provide worker who handles chemicals at Finishing Department with the relevant PPE (gloves), as required by MSDS of chemicals in use.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Immediate Action: 1. A file will be implemented for any complaint or suggestion of the mailbox with its respective response or solution. 2. A second mailbox will be located in the SSHH on the 5th floor.

Preventive Action: 1. A person responsible for following up on complaints and / or suggestions and filing them was designated.

Planned completion date

09/23/19

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The two smoke detectors available at Floor #3 were tested, but they did not work. Moreover, the factory did not show assessors documentary evidence showing that all smoke detectors available at the factory are inspected or maintained. [HSE.5]

2. During the observation tour, assessors found that most of emergency lights were not working, as assessors tested the lights but they did not turn on. The factory has 28 emergency lights in total; assessors tested 18 and found that 14 were out of service. In detailed, the following emergency lights did not turn on: #5, #9, #12, #13, #14, #16, #17, #18, #21, #24, #25, #26, #27 and #28. These emergency lights were located in production areas and also at stairs connecting the different factory floors. [HSE.5]

Local Law or Code Requirement

Peruvian Technical Norm NTP IEC 60598-2-22, Article 22.3.14; FLA Workplace Code (Health, Safety and Environment Benchmark HSE.5)

Recommendations for Immediate Action

1. Fix or replace smoke detectors at Floor #3 and ensure they are properly functioning by conducting regular maintenance, and keep records of maintenance.

2. Replace broken emergency lights with new ones that work properly.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Immediate Action: 1. Smoke detectors were maintained leaving them operational. 2. Maintenance of emergency lights was performed leaving them operational.

Preventive Action: 1. Equipment included in the preventive maintenance schedule. 2. Programming and conducting inspections

Planned completion date

09/23/19

FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1) The factory does not conduct drinking water tests to demonstrate drinking water is appropriate for human consumption. Three out of thirteen interviewed workers expressed they have opted for not drinking the water provided by factory, and they bring their own water from home as they do not rely on the water quality. Even when the majority of interviewed workers did not report complaints about drinking water quality, the factory should conduct periodic drinking water test to demonstrate it is adequate for human consumption. [HSE.23]

2) There is only one drinking water station at the factory, which is located on the fourth floor. The factory building has seven floors; hence, there is not drinking water available at a reasonable distance for the majority of workers. [HSE.23]

3) The factory has not conducted pre-employment medical examinations or periodic medical examinations (every two years), as required by local law. [HSE.1]

Local Law or Code Requirement

Sanitary Norm NTS-071-MINSA/DIGESA, Article 6.2 section XVI.4; Law 29, 783, Article 49 section d); Law 30,222, Article 2; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1 and HSE.23)

Recommendations for Immediate Action

1) Conduct drinking water tests to ensure it is adequate for human consumption.

2) Install drinking water containers at all factory floors to ensure that drinking water is located at a reasonable distance to all workers.

3) Conduct pre-employment medical examinations and periodic medial examinations for workers, as required by law.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Immediate Action: 1. Send Analyze the water in the dispenser. 2. Acquire a second dispenser. 3. Prepare programming to comply with the medical examination of all new workers and those who have already completed two years since the first exam.

Preventive Action: 1. Water Potability Analysis once a year.

Planned completion date
09/30/19

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The factory uses one compressor, but it has not been registered with the Ministry of Labor, as required by local law. Also, during 2019 this compressor had not received maintenance and did not have any upcoming scheduled maintenance. The last maintenance was conducted in December 2018. [HSE.1, HSE.4, HSE.14]

Local Law or Code Requirement

Supreme Decree 42-F, Article 450; Supreme Decree 049-82-ITI/IND, Article 2; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4, and HSE.14)

Recommendations for Immediate Action

Initiate the administrative procedure to register the factory compressor, as required by local law.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Immediate Action: 1. Maintenance of the compressor. 2. They will present an application for registration with the Ministry of Labor.

Preventive Action: 1. Equipment included in the preventive maintenance schedule.

Planned completion date
11/29/19

Action Plan no 2.

Description

Immediate Action: 1. Maintenance of the compressor. 2. They will present an application for registration with the Ministry of Labor. Preventive Action: 1. Equipment included in the preventive maintenance schedule.

Planned completion date
11/29/19

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1) Chairs used by production workers do not meet conditions required by local law: they are not adjustable and they are missing a seat cushion, backrest, and armrest. [HSE.17]

2) Most workers performing standing-operations in the Finishing Department do not have sufficient seats. Around 80% of these workers do not have a seat to use it when needed. [HSE.17]

3) The factory has not conducted an assessment to determine levels of particulate material present at the workplace, which would be useful to establish whether the use of masks is mandatory or not. During the facility tour, assessors noted that around 30% of workers at Cutting and Sewing production areas (where the most amount of fabric particles were noted) do not use masks. The assessors confirmed that masks are made available for workers and workers can request replacements if need be. [HSE.1]

Local Law or Code Requirement

Basic Norm on Ergonomics and Evaluation Procedure of Ergonomic Risks; Article 17; Supreme Decree 015-2005-SA, Article 01; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1 and HSE.17)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Immediate Action: 1. Purchase of chairs for the finishing area. 2. Analysis to determine the level of particulate material in the air. 3. Distribute Masks

Preventive Action: 1. Buy gradually ergonomic seats.

Planned completion date

04/30/20

FINDING NO.11

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

The factory is not using an authorized third party company in charge of final disposition of hazardous waste. The factory generates burned oil, pieces of fabric containing oil, printer cartridges, and fluorescent lamps; however, all this hazardous waste is kept in a designated warehouse, and there is no external service provider assigned to dispose of such waste. Management explained that they started to store the hazardous waste two years ago, and before that, it was disposed with regular waste, except for burned oil and printer cartridges, which have always been stored. [HSE.4, HSE.9]

Local Law or Code Requirement

General Law on Solid Waste (Law 27,314), Article 23.2; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4, and HSE.9)

Recommendations for Immediate Action

Designate an authorized third party company in charge of the final disposal of hazardous waste generated by the factory.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Immediate Action: 1. Hire a company that immediately disposes of stored hazardous waste.

Preventive Action: Perform the disposal of hazardous waste once a year.

Planned completion date

10/31/19

FINDING NO.12

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

The factory is missing written policies and procedures for most Employment Functions and FLA Code Provisions. There are no policies or procedures on Recruitment, Hiring, Personal Development (including promotion, reassignment and performance reviews), Compensation, Hours of Work, Termination and Retrenchment. Additionally, the factory does not have procedures on Freedom of Association or Environmental Protection, and the Grievance procedures are incomplete, as they do not include provisions regulating the use of the suggestion box (e.g., frequency of management review of suggestion box, steps and timeframe for management to follow/investigate complaints, how to communicate grievance resolution to workers and timeframes). Finally, the factory lacks some procedures on Health and Safety, including procedures on chemical management, machinery and equipment maintenance, and ergonomics are missing. [ER.1, ER.19, ER.23, ER.29, ER.30, ER.31, ER.32]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.19, ER.23, ER.28, ER.29, ER.30, ER.31, and ER.32)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Immediate Actions: -1. With the working group, the policies and procedures that are lacking to complement and elaborate regarding Freedom of Association and Complaint procedures will be reviewed and elaborated according to the FLA Workplace Code regulations. 2. With the SOMA Committee, the SOMA regulations will be reviewed, and will complement those points required by the FLA Workplace Code regulations. 3. A talk will be given on the existing procedure in management and handling of chemical products. 4. Production together with the mechanics area will prepare a schedule for the preventive maintenance of the machines. 5 He will give talk about Ergonomics.

Preventive Action: -Creation of a working group with managers and heads of area and / or hiring of an external advisor for the definition of positions, the design of salary structures and factors to be considered for the promotion of the position. 1. and 2 An annual review of all our VS policies and procedures will be implemented. The country's regulations and the FLA Workplace Cod regulations. 3. A semi-annual training on the existing procedure in management and handling of chemical products will be implemented. 4. The production area will report bi-monthly compliance with the maintenance schedule. 5. Development and dissemination of ergonomic manual. Jan 31, 2020

Planned completion date
01/31/20

FINDING NO.13

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory does not provide ongoing worker training on Recruitment, Hiring, Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Workplace Conduct & Discipline, and procedures regulating the use of suggestion boxes. Also, training provided to workers has not been effective, as interviewed workers are not aware of the factory's policies on Freedom of Association, Nondiscrimination, or Harassment or Abuse. [ER.1, ER.15]

2. Factory has not implemented reasonable efforts to ensure that workers understand their compensation, including wage calculation and overtime and legal benefits calculation. [C.17]

3. The factory does not provide a formal and complete orientation training to new workers. Management only informs workers of some general rules in a short talk, but no in-depth explanations are provided on the different Employment Functions or Code Elements. Management only explains some basic safety rules, the work schedule, and the modality of salary payment. [ER.15]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15; Compensation Benchmark C.17)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Immediate Action: - A training role will be developed to make current workers aware of all issues related to their salary benefits, as well as policies, procedures, obligations, among others that were not disclosed in a timely manner. Jan 20, 2020

Planned completion date
03/31/20

FINDING NO.14

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

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. Workers are neither systematically integrated nor consulted in the decision-making process. [ER.1, ER.25]

Local Law or Code Requirement

COMPANY ACTION PLANS

Action Plan no 1.

Description

Immediate Action: - A procedure will be developed that includes the participation of workers in the review and approval of company policies and procedures, as well as the reception of workers' comments on them. - This procedure will be disseminated.
Preventive Action: A working group will be created with representatives of the workers to review the existing procedures and policies, as well as discuss the approval and implementation and dissemination of these in future.

Preventive Action: A working group will be created with representatives of the workers to review the existing procedures and policies, as well as discuss the approval and implementation and dissemination of these in future

Planned completion date

01/31/20

Action Plan no 2.

Description

Immediate Action: - A procedure will be developed that includes the participation of workers in the review and approval of company policies and procedures, as well as the reception of workers' comments on them. - This procedure will be disseminated.
Preventive Action: A working group will be created with representatives of the workers to review the existing procedures and policies, as well as discuss the approval and implementation and dissemination of these in future.

Preventive Action: A working group will be created with representatives of the workers to review the existing procedures and policies, as well as discuss the approval and implementation and dissemination of these in future

Planned completion date

01/31/20