



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: MV Sport - The Game Inc.

COUNTRY: China

ASSESSMENT DATE: 09/18/19

ASSESSOR: Openview

PRODUCTS: Headwear

NUMBER OF WORKERS: 1481

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
Hours of Work	3
Employment Relationship	24
Health, Safety, and Environment	11

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. This practice carries the risk of discrimination based on FLA Workplace Code of Conduct and Benchmarks. (Note: According to the legal requirement, small factories with workforce of less than 30 do not need to contribute to the Employment Security Fund in lieu of employing disabled workers.) [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]

4. There is no written job description prepared for all production positions. [ER.1.1]

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.1, ER.15 and ER.29)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Progress or confirmation of completion to be confirmed through desktop review or in subsequent audit.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. A review of social insurance payments from September 2018 to August 2019 and interviews show that the factory does not provide sufficient social insurance to all eligible workers. There is a total of 16 workers in the factory and all of them are eligible for social insurance contribution. 15 out of 16 eligible workers (94%) were provided with work-related injury, medical, maternity, pension and unemployment insurances in August 2019. The factory does not provide commercial insurances to any workers. [C.1]
2. The factory does not contribute to the legally required Housing Provident Fund for any workers. [ER.22.1]
3. According to compensation procedure 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. The factory has not informed or consulted with workers before arranging them to take five days of annual leave during Chinese New Year Holiday. [HOW.12.2]
5. All interviewed workers are not aware of the paid leave policies, including annual leave, sick leave, marriage leave or funeral leave. [C.17.1]

Local Law or Code Requirement

The China Labor Law, Article 72; The Regulations on Management of Housing Provident Fund, Article 15; The Implementation Measures for Employee Paid Annual Leave, Article 4. FLA Workplace Code (Employment Relationship Benchmark ER.22; Hours of Work Benchmark HOW.12; Compensation Benchmarks C.1, C.6 and C.17)

Recommendations for Immediate Action

1. <!--[endif]-->Provide social insurance to all eligible workers.
2. <!--[endif]-->Provide Housing Provident Fund to all eligible workers.
3. <!--[endif]-->Calculate annual leave based on worker's cumulative working experience (working age).
4. <!--[endif]-->Consult with workers before determining the time at which annual leave is taken.

COMPANY ACTION PLANS

Action Plan no 1.

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FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. According to the time records for the period from August 2018 to September 17, 2019 and worker interview, all workers' monthly overtime hours exceeded 36 per month in 8 out of 12 reviewed months, with a maximum of 60 overtime hours in September 2018. [HOW.1.1]

2. The factory production plan is based on 48 to 54 hours per week. Factory management sets production targets and production system at a level that workers need to work eight to fourteen overtime hours per week. [ER.24]

Local Law or Code Requirement

The China Labor Law, Article 41. FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmark HOW.1)

Recommendations for Immediate Action

1. <!--[endif]-->Control overtime hours do not exceed 36 in a month.

2. <!--[endif]-->Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.

COMPANY ACTION PLANS

Action Plan no 1.

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FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. 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

COMPANY ACTION PLANS

Action Plan no 1.

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FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

1. The factory has only maintained suggestion box opening records and not maintained any other documentation in relation to grievance process, including management reviews and actions taken to resolve the complaints and grievances. Interviews with workers and management note that some grievances have been raised and handled verbally and no records are maintained. [ER.2.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.2)

COMPANY ACTION PLANS

Action Plan no 1.

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FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. There are ergonomic issues in the factory: a) The factory does not provide anti-fatigue mats to workers on the standing posts like cutting workers or adjustable chairs with armrest to workers on the sitting posts like sewing workers. [HSE.17.1]
b) The factory does not provide ergonomic training to workers. There are sewing, cutting, QC and packing posts where workers are under ergonomic risk for sitting or standing for hours and repeating the same work. [HSE.17.2]

2. The factory has not conducted pre-assessment of occupational disease hazards, assessment of the effects of occupational disease hazards, or assessment of current conditions of occupational disease hazards since the construction of production building completed in 2005. [HSE.1]

3. The factory does not provide pre-job or on-job occupational health examination to the only one worker with exposure to hazardous chemicals responsible for cleaning job. [HSE.1]

4. The factory does not provide safety information to contractors. [HSE.1]

5. The hand washing facility was broken in the restroom of production area. [HSE.19]

Local Law or Code Requirement

The China Law of Prevention and Control of Occupational Diseases, Article 17, Article 18 and Article 35. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.17 and HSE.19)

Recommendations for Immediate Action

1. <!--[endif]-->Provide pre-job and on-job occupational health examination to the worker with exposure to hazardous chemicals.
2. <!--[endif]-->Repair the hand washing facility in the restroom.

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FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The fire alarm system does not have a backup battery and is not centralized in the production building. [HSE.5.1]
2. The factory stores flammable materials such as blanket, timber and plastic bags under the stairwell on the first floor of the production building. [HSE.5.1]
3. The fire brigade does not have the appropriate personal protective equipment (PPE) including breathing apparatus, fire fighter helmet and fire fighter gloves to fight fires. [HSE.5.1]
4. The factory occupies the fourth floor of the production building. The first to third floors are used by a yarn factory named Hangzhou Yueyi with different owner. However, the factory does not coordinate the fire safety concerns or risks with the other factory in the same building. They have neither planned the fire-fighting facility placement nor organized a joint fire drill. [HSE.5.1]

Local Law or Code Requirement

The Code for Design of Automatic Fire Alarm System (GB50116-2013), Article 4.8.5 and Article 10.1.1; The Code of Design on Building Fire Protection and Prevention (GB50016-2014), Article 6.4.1. FLA Workplace Code (Health, Safety & Environment Benchmark HSE.5)

Recommendations for Immediate Action

1. <!--[endif]-->Install a centralized fire alarm system with backup battery in the production building.
2. <!--[endif]-->Remove the flammable materials from the stairwell of the production building.

3. <!--[endif]-->Provide appropriate personal protective equipment (PPE) to fire brigade to fight fires.
4. <!--[endif]-->Coordinate the fire safety concerns and risks with the other factory located in the same building.

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FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The traffic lanes and walk paths are not clearly marked in the factory compound. [HSE.1]
2. The factory has never inspected the lightning protection system in production building. [HSE.13]
3. The factory does not post the contact information for emergency medical responders. [HSE.6.1]
4. The factory does not conduct regular inspection on first aid kits and the expiration dates of some medicines have passed, including hydrogen peroxide (expired in August 2019) and alcohol cotton (expired in July 2019). [HSE.18.3.1]
5. The factory procedures include negative measures to discipline workers if they do not use personal protective equipment (PPE) properly. For example, whoever does not wear PPE as per requirement is subject to verbal warning. However, the factory has not implemented this procedure. [HSE.15]

Local Law or Code Requirement

Technical Specifications for Inspection of Lightning Protection System in Building, Article 6. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.6, HSE.13, HSE.15 and HSE.18)

Recommendations for Immediate Action

1. <!--[endif]-->Clearly mark the traffic lanes and walk paths in the factory compound.
2. <!--[endif]-->Conduct annual inspection on the lightning protection system and maintain inspection reports.
3. <!--[endif]-->Post contact information for medical response.

4. <!--[endif]-->Conduct regular inspection on first aid kits and replace the expired medical supplies in a timely manner.

5. <!--[endif]-->Stop using negative incentives and provide more training to ensure that workers use machinery and tools safely.

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FINDING NO.9

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:

- a) Policies and procedures that encourage ongoing training with the goal of raising or broadening workers' skills so they can advance in their careers. [ER.28.1]
- b) Policies and procedures outlining the process for performance reviews. [ER.29.1]
- c) Policies and procedures on promotion, demotion and job reassignment. [ER.30.1]

2. The factory does not have policies or procedures governing Retrenchment. [ER.32.1]

3. The disciplinary procedures do not include:

- a) Workers should be informed when a disciplinary procedure has been initiated against them. [ER.27.3.1]
- b) Workers' right to participate and be heard in any disciplinary procedure against them. [ER.27.3.2]
- c) Workers should sign all written records of disciplinary actions taken against them. [ER.27.3.3]
- d) Workers' right to have a third-party witness present during imposition of the disciplinary action. [ER.27.4]

4. The factory does not have procedures for workers to raise health, safety and environmental concerns. [ER.31.2.4]

5. The factory does not have procedures indicating protection against retaliation for workers who raise health, safety and environmental concerns. [ER.31.2.6]

Local Law or Code Requirement

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

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FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The orientation training to new workers does not include Personnel Development, Retrenchment, Grievance System, Workplace Conduct & Discipline or Industrial Relations. [ER.15.1]
2. The ongoing training to workers does not include Personnel Development or Retrenchment. [ER.1.2]
3. The factory provides no specific training to relevant supervisors on all Employment Functions. [ER.17.1]

Local Law or Code Requirement

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

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FINDING NO.11

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 Benchmarks for all Employment Functions. [ER.1.3]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1)

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FINDING NO.12

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. The factory does not communicate to general workforce on its policies and procedures or their updates for Employment Functions including Personnel Development and Retrenchment. [ER.16.1]
2. The worker integration component is missing across all Employment Functions. This indicates that the factory has not established procedures to request or receive workers' input/feedback regarding the creation, implementation, and updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes. [ER.1.3]

Local Law or Code Requirement

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

COMPANY ACTION PLANS

Action Plan no 1.

Description

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