



Verification Assessment

COMPANIES: Mainland Headwear Holdings Limited

COUNTRY: China

ASSESSMENT DATE: 01/15/18

ASSESSOR: Openview

PRODUCTS: Accessories [items, such as handbag clasps, that are affixed to other products]

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.

Previous Report Findings and Verification Results

PREVIOUS FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

Per factory regulations and recruitment procedures, labor contracts either have: a) terms of 3 years or more or b) open-ended terms that provide for an extended probation period of 6 months. This regulation is in compliance with local legal requirements; however, FLA Workplace Code and Benchmarks state that the probation period limit is 3 months. In practice, the longest probation period noted was 3 months, as no long-term contracts were concluded with employees.

A systematic delay of 15 days was noted in the payment of wages. Reviewed payrolls indicated that wages were paid to employees on the 22nd day of each pay period. However, local law requires paydays to not be later than the 7th day after the last pay period.

Local Law or Code Requirement

Regulations of the Shenzhen Municipality on the Wage Payment to Employees, Article 11; FLA Workplace Code (Compensation Benchmarks C.1 and C.3)

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. Finding Status: Partially Remediated

Explanation:

The factory had signed open-ended labor contracts with workers who had been working in the factory for more than ten years or have signed a second labor contract upon expiration of the first one. However, the probation period of 21 out of the 50 sampled workers' was six months, which is in line with legal requirements but not with the FLA benchmark. [C.3]

Root Causes:

The factory management stated that they are in compliance with Chinese legal requirements and have no plans to.

2. Finding Status: Remediated

Explanation:

The payday in the factory is the 15th day of the following month, which is eight days later than the agreed payday in the labor contract and the local legal requirements, which is the 7th of the month. However, the factory signs an agreement with union representatives each month regarding the payday, which is acceptable according to the local legal requirements which stipulate that "If, due to difficulties in production and operation, more than 5 days' payment delay is needed, the employer must obtain written consent from the trade union or the employees themselves, with the maximum length of delay no more than 15 days."

Local Law or Code Requirement

Regulations of the Shenzhen Municipality on the Wage Payment to Employees, Article 11; FLA Workplace Code (Compensation Benchmark C.3)

Recommendations for Immediate Action

Ensure that the probation period in the labor contract does not exceed three months.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. We can meet FLA benchmark as most of our workers have been worked for more than a year and very few new workers in real practice. We will modified our policy and blank labor contact to mention that the probation period is 3 months.
2. We will continue to communicate with union representatives for our payday status.

PREVIOUS FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Compensation

Finding Explanation

Although the factory has established written policies and procedures for marriage and bereavement leave, they kept no records related to these policies and procedures. Most interviewed workers also indicated that they do not know how to apply for paid marriage and bereavement leave.

Factory does not provide 100% of social insurance coverage on a systematic basis. For example, social insurance receipts from October 2012 indicate that all 2278 employees were provided with both work-related injury insurance and medical insurance. However, only 1888 employees (82.8%) were provided pension insurance, 3 employees were provided unemployment insurance, and 8 employees were provided maternity insurance.

Local Law or Code Requirement

China Labor Law, Article 73; FLA Workplace Code (Compensation Benchmarks C.1, C.5, and C.17)

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. Finding Status: Remediated

Explanation:

The factory has established procedures on statutory leave, including annual leave, marriage leave, bereavement leave, etc. In addition, the factory provides related training to all workers upon hiring and in regular intervals. Based on worker interviews, the workers know how to apply for marriage leave. Based on document review and worker interviews, workers have applied for this kind of leave.

2. Finding Status: Partially Remediated

Explanation:

A total of 1196 employees were eligible to receive five types of social insurances including pension insurance, medical insurance, unemployment insurance, child-bearing insurance, and occupational injury insurance in December 2017. Based on a review of the social insurance enrollment list and payroll records, all of these employees are covered by medical insurance, unemployment insurance, child-bearing insurance, and occupational injury insurance. However, only 1037 workers are covered by pension insurance. In addition, 100% of workers are contributed at a lower base than their actual earnings. For example, one worker earns a monthly wage of CNY 4606 (USD 697.88) and contributes CNY 468.6 (USD 71) to the social insurance. However, based on the local law and the worker's actual wage, the worker should have contributed CNY 1013 (USD 153.53). Furthermore, a total of 1196 employees are eligible for the Housing Provident Fund in December 2017. However, only 275 workers are enrolled in the Housing Provident Fund as of December 2017. [C.1, C.5]

Root Causes:

The factory management stated that the workers are not willing to contribute to the pension insurance or the Housing Provident Fund. Some of the interviewed domestic migrant workers confirmed that they're unwilling to contribute to these schemes as they're uncertain if they will be able to avail themselves of these funds upon returning to their home provinces.

Local Law or Code Requirement

Labor Law of the People's Republic of China, Article 73; FLA Workplace Code (Compensation Benchmarks C.1, C.5)

COMPANY ACTION PLANS

Action Plan no 1.

Description

All the new coming workers is mandatory to participate the old-age pension insurance to make sure the participation percentage would not decrease. All old workers would be requested to participate the old-age pension unless they can show evidences that they have joined it in their home town. We will continue to encourage the workers to join pension insurance in monthly trainings. We will also invite the government department or ACFTU to provide training to explain the benefit of social insurance and the related policy updates

PREVIOUS FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

During every month of the review period (November 2011 to December 2013), approximately 70% of employees worked more than 36 hours per month of overtime. The maximum monthly overtime hours for a representative sample was 62 hours.

Local Law or Code Requirement

China Labor Law, Article 41; FLA Workplace Code (Hours of Work Benchmark HOW.1)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

Explanation:

Based on a review of the time records of the sampled months of December 2017 (the most recent month), September 2017 (a random month), and May 2017 (a random month), it was noted that 49 out of 50 workers' monthly overtime hours ranged from 50.5 hours to 90 hours in December 2017, 48 out of 50 workers' monthly overtime hours ranged from 43 to 90 hours in September 2017, and 48 out of 50 workers' monthly overtime hours ranged from 42.5 to 82.5 hours in May 2017.

Root Causes:

The factory management stated that OT work in excess of 36 hours/month was due to production needs and workers' willingness to work OT for higher income. Interviewed workers stated that they welcome OT work and find the working hours reasonable.

Local Law or Code Requirement

Labor Law of the People's Republic of China, Article 41; FLA Workplace Code (Hours of Work Benchmark HOW.1)

Recommendations for Immediate Action

Ensure that the monthly overtime hours do not exceed legal requirements. Arrange a reasonable production plan, increase productivity using positive means (such as bonuses), and reduce overtime hours to ensure that they are within 36 hours per month as per the legal limit.

COMPANY ACTION PLANS

Action Plan no 1.

Description

We have achieved the weekly working hours below 60 to meet the FLA benchmark. Regarding of the law requirement about 36 hours monthly OT, our production planning based on 8 hours per day and provide safeguard so we can better control the OT. As the worker would like work more overtime to earn more even the salary level is high in China when comparing with other countries, we will provide training to change the workers' mindset.

PREVIOUS FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Factory has 6 elevators operated by 1 licensed operator; this operator failed to submit their certificate to the local authority for annual surveillance by the October 12 due date.
2. The factory did not have a report on the inspection and acceptance of a completed construction project for: a) 2 8- storey production buildings, b) 2 5-storey dormitory buildings, and c) 2 6-storey dormitory buildings.
3. The factory did not have the report on the environmental impacts or on the registration form regarding the environmental impacts of the facility's construction.

Local Law or Code Requirement

Special Appliance Quality Safety Monitoring Regulation, Article 38; Management Regulation on Safety Training and Assessment for Special Operator, Article 21; China Environmental Impact Assessment Law, Articles 16 and 22; China Construction Law, Article 61; China Fire Prevention Law, Article 13; FLA Workplace Code (Health, Safety, and Environment Benchmarks HSE.1 and HSE.4)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status: Remediated

Explanation:

During the assessment, the factory had valid certificates for all special appliances, including the elevators, the boilers, the pressure vessels, etc.

2. Finding Status: Partially Remediated

Explanation:

The factory does not have a report on the inspection and acceptance of a completed construction project for one block of the 8-story production building, which was completed in 2003 (Block D). HSE.1, HSE.4

Root Causes:

The factory management stated that it has been difficult to obtain the report due to the fact that the buildings were completed 15 years ago and the reports were not completed then.

3. Finding Status: Not Remediated

Explanation:

The factory still does not have the report on the environmental impacts or the report on the registration form regarding the environmental impacts of the facility's construction. HSE.1, HSE.4

Root Causes:

The factory management stated that it has been difficult to obtain the reports from the local Environment Bureau.

Local Law or Code Requirement

Environmental Impact Assessment Law of the People's Republic of China, Articles 16 and 22; Construction Law of the People's Republic of China, Article 61; FLA Workplace Code (Health, Safety, and Environment Benchmarks HSE.1 and HSE.4)

COMPANY ACTION PLANS

Action Plan no 1.

Description

2.

This is a historical problem and there is no method to obtain the inspection and acceptance certificate for a building which is completed 15 years ago. Instead, we would hire a 3-party to inspect the building to ensure the building is in good condition and no safety risk. After the government can provide a alternative policy, we will follow it and obtain this certificate.

3.

We have obtained the environmental impacts assessment report.

PREVIOUS FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The chemical management procedure is incomplete. For example, it does not have any guidelines on chemical disposal, the potential impact associated with the use of chemicals, and corresponding protection methods or tools.

Chemicals that are in use during daily operation are not well protected. For example, there was no secondary containment for 1 stored

chemical barrel; 1 chemical barrel stored in the carton-making workshop was not clearly marked with safety labels; and no material safety data sheet (MSDS) was posted on 1 chemical barrel storage.

Training on chemical safety management is not sufficient.

Local Law or Code Requirement

The Regulation for Safety of Dangerous Chemical, Article 16; The Regulation of Chemical Safety Usage in Workplace, Articles 12 and 19; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.2, HSE.9, and HSE.10)

VERIFICATION RESULT

Finding Status

Remediated

Remediation Details

1. Finding Status: Remediated

Explanation:

The factory has established a complete chemical management procedure, including guidelines on chemical disposal, the potential impact associated with the use of chemicals, and corresponding protection methods or tools.

2. Finding Status: Remediated

Explanation:

During the assessment, chemicals in the factory were well-managed, there was effective secondary containment, there were clear safety labels, and the MSDS were available in the workshop and the chemical warehouse.

3. Finding Status: Remediated

Explanation:

Based on review of training materials, trainee attendance record, worker and management interviews, the factory has been providing chemical trainings to all workers upon hiring and also on a regular basis.

PREVIOUS FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

HSE management systems were under development; general policy and procedure do not meet the necessary requirements to identify and minimize the risk of production processes, which should include:

Lock out/tag out procedure;

Machine guarding procedure;

Ergonomics management program;

Confined spaces management;

Procedure for controlling thermal comfort conditions;

PCB management;

Asbestos management.

Guard devices on machines are not well installed; for example, 10 sewing machines were not installed with needle guards, 6 sewing machines were not installed with pulley guards; and 5 button-fastening machines were not installed with “u” protective devices. One fan was equipped with an inappropriate protective device and no protective cages were equipped for the ladders that lead to the water pool on the roof of each building.

None of the workers in shaping positions, where their hands may in contact with hot accessories, were wearing personal protective equipment (PPE) (gloves).

The factory did not conduct an air quality testing report; no report was available for workshops that use chemicals.

Local Law or Code Requirement

The Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6; The Safety Requirements for Fixed Steel Ladders and Platform - Part 3; Law of the People's Republic of China on Prevention and Control of Occupational Diseases, Article 20; Law of the People's Republic of China on Production Safety, Article 37; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.7, and HSE.14)

VERIFICATION RESULT

Finding Status

Remediated

Remediation Details

1. Finding Status: Remediated

Explanation:

The factory has established a complete HSE management system, including a general policy and procedures to identify and minimize the risk of production processes. These procedures include a lock-out/tag-out procedure and a machine guarding procedure, ergonomics, confined spaces, thermal comfort, etc.

2. Finding Status: Remediated Explanation:

During the assessment, all sewing machines were equipped with functional safety guards and needle guards.

3. Finding Status: Remediated

Explanation:

During the assessment, workers were wearing proper PPE when working. For example, the embroidery workers were wearing earplugs and the washing workers were wearing gloves.

4. Finding Status: Remediated

Explanation:

The factory has conducted an air quality testing report with passing results, which was provided for review.

PREVIOUS FINDING NO.7

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

There was no air emission management procedure.

There was no environmental emergency response procedure.

The regular training on environment protection only covered 10% of all employees. The employees who received the training were supervisors, HSE, and managerial staff.

The factory has some hazardous waste mixed with non-hazardous waste.

Local Law or Code Requirement

China Law of Prevention and Treatment of Environmental Pollution by Solid Wastes, Article 58; FLA Workplace Code (Employment Relationship Benchmark ER.31)

VERIFICATION RESULT

Finding Status

Remediated

Remediation Details

1. Finding Status: Remediated Explanation:

The factory has established an air emission management procedure.

2. Finding Status: Remediated Explanation:

The factory has established an environmental emergency response procedure.

3. Finding Status: Remediated

Explanation:

The regular training on environmental protection covers all employees. The supervisors, HSE, and management staff have all received this training.

4. Finding Status: Remediated Explanation:

The factory now separates hazardous waste from non-hazardous waste.

PREVIOUS FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

FLA Comment: The Chinese constitution guarantees Freedom of Association (FOA); 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 ILO, many provisions of the Trade Union Act are contrary to the fundamental principles of FOA, 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. However, the government has introduced new regulations that could improve the functioning of the labor relation mechanisms. The Amended Trade Union Act of Oct. 2001 stipulates that union committees have to be democratically elected at member assemblies and trade unions must be accountable to their members. The trade union has the responsibility of consulting with management on key issues of importance to their members and to sign collective agreements. Trade unions also have an enhanced role in dispute resolution. In Dec. 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. The factory did not take any action on workers' freedom of association so far. There was a trade union in the facility but it was not independent, and no evidence indicated that the management had encouraged the union to collect any suggestions from employees and adopt them when revising factory policies.

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmark FOA.2)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

Explanation:

Please see the FLA Comment above. [FOA.2]

Root Causes:

Discrepancy between China labor laws and the ILO standards.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Our Union is elected by all employees. Factory provide a private area for Union to have regular meeting. The suggestion/opinion of worker representatives would be collected and discuss with management. The worker representatives have been trained by ACFTU to collect the grievance/suggestion/opinion from all employees. ACFTU has regular visit and monitor our Union activities. ACFTU also provide different trainings and activities to our Union member. Every year our Union would discuss with management to set up the collective bargaining agreement. Other than ACFTU, we are searching other CSO to work with us.

New Findings and Action Plans

NEW FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

One of the three emergency exit signs in the Straw Hat section on the second floor and one of the three exit signs in the cutting workshop on the first floor of Block A&B are not illuminated. [HSE.5]

One fire extinguisher in the embroidery section on the fourth floor of Block D and two fire extinguishers in the kitchen are located on the ground and not mounted on the wall. [HSE.5]

Local Law or Code Requirement

Fire Safety of Building Design Regulation (GB50016-2014) Article 10.3.5; Code for Design of Extinguisher Distribution in Buildings of the People's Republic of China (GB 50140-2005) Article 5.1.3; FLA Workplace Code (Health, Safety & Environment Benchmark HSE.5)

Recommendations for Immediate Action

1.
Ensure that all exit signs are functional and regularly maintained.
2.
Ensure that all the fire extinguishers are well mounted on walls.

COMPANY ACTION PLANS

Action Plan no 1.

Description

We would continue our monthly inspection for all fire safety equipment including exit signs and fire extinguishers. Our safety officer is assigned to shadow the monthly inspection and random checking. If there is any mistakes during the inspection, safety officer will provide further training for the inspector.

NEW FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The factory has not provided occupational health checks for about 70 workers who are exposed with occupational hazards, such as chemicals, noise, etc. in 2017. [HSE.1]

The factory does not provide seats with back support to sewing workers or anti-fatigue mats to workers who stand during work. [HSE.17]

Local Law or Code Requirement

Occupational Disease Prevention Law of the People's Republic of China, Article 35, FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1 and HSE.17)

Recommendations for Immediate Action

1. Regularly provide occupational health checks for workers who are in contact with occupational hazards, such as chemicals, noise, etc.
2. Provide seatbacks for sewing workers and anti-fatigue mats for workers who stand during work. Also, provide trainings on musculoskeletal risks.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. The local health and Epidemic Prevention Center has obtained the qualification to conduct occupational health checks. The workers who are exposed with occupational hazards have been sent to conduct the occupational health checks.
2. We will continue to provide the training of ergonomics to all workers. If there is a need for seatbacks and mats, factory will provide to them.

NEW FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

90% of the hazardous mud disposed in the wastewater treatment station has not been labeled. [HSE.9]

Local Law or Code Requirement

Law of Prevention and Treatment of Environmental Pollution by Solid Wastes of the People's Republic of China, Article 52; FLA Workplace Code (Health, Safety & Environment Benchmark HSE.9)

Recommendations for Immediate Action

Label the hazardous mud disposed in the wastewater treatment station.

COMPANY ACTION PLANS

Action Plan no 1.

Description

We will provide the refresh training to the worker in charge of wastewater treatment station. Factory has labeled all the hazardous mud in the wastewater treatment station.

NEW FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

The attendance system does not distinguish pregnant and lactating workers. [HOW.5]

The assessors noted inconsistencies between production records, the provided time and pay records as follows:

Based on a review of the sewage treatment operation records (starting & closing) in the sewage treatment station, there were operation records on August 6, 2017 and October 22, 2017. Both of these days were Sundays. However, the provided attendance records showed that the two workers involved relevant workers rested on that day.

Based on a review of the sewage treatment operation records (the feeding chemical reagent records), there were feeding chemical reagent records on October 5 and October 22, 2017, both of which were rest days. However, the provided attendance records showed that the two workers involved in the sewage treatment station rested on both days.

Based on a review of the sewage treatment and operation of industrial pollution sources records, there were operation records on October 5 and October 22, 2017, both of which were rest days. However, the provided attendance records showed that the same two workers involved in the sewage treatment station rested on both days.

All three incidents involved the same two workers, one of whom had since resigned. The assessors interviewed the worker who was still working at the factory and had entered the records; he confirmed having worked on those rest days and having been made the records on those dates. The factory management stated that the local Environmental Bureau directed the factory to prepare these records. No such written directives were available for review. While interviews with other workers in the factory revealed no Sunday work, given these discrepancies in the records it was not possible for the assessors to verify whether inconsistencies were confined to these isolated cases or were systematic and were therefore not able to fully verify factory's compliance with local law and FLA benchmarks with respect to working hours and compensation. [HOW.1, ER.2.1, ER.23.2]

Local Law or Code Requirement

PRC Labor Law article 41, 44 & 48; FLA Workplace Code (Employment Relationship Benchmarks ER.2.1 and ER.23.2, Hours of Work Benchmarks HOW.1 and HOW.5)

Recommendations for Immediate Action

1.
Ensure the attendance system distinguishes pregnant and lactating women.
2.
Ensure working hours records are maintained accurately so that the compliance status of working hours and wages could be fully verified.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1.
Our HR department has informed all departments for the list of the pregnant and lactating women. We have provided the training to all department in charge about the restriction of working hours for those women.
2.
As the local environmental bureau staff visit our factory regularly to monitor the wastewater quality and directly communicate to our worker in wastewater treatment facility. Our management has instructed our worker that they should not follow the instruction from local environmental bureau staff and must make an accurate record. Our admin. manager is assigned to communicate with local environmental bureau staff during their every visit to avoid the same problem.