



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: arena Group
COUNTRY: China
ASSESSMENT DATE: 08/10/20
ASSESSOR: Openview
PRODUCTS: Housewares
NUMBER OF WORKERS: 186

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	4
Hours of Work	7
Employment Relationship	10
Health, Safety, and Environment	7
Nondiscrimination	3

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory signs one-and-a-half-year employment contracts with workers. However, the factory does not sign open-ended employment contracts with all eligible workers after two consecutive fixed-term employment contracts. [ER.10.1]

Local Law or Code Requirement

The China Labor Contract Law, Article 14. FLA Workplace Code (Employment Relationship Benchmark ER.10)

Recommendations for Immediate Action

1. <!--[endif]-->Sign open-ended employment contracts with all eligible workers after two consecutive fixed-term employment contracts.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Sign open-ended employment contracts with all eligible workers after two consecutive fixed-term employment contracts.

Company Action Plan Update

1. The factory started to sign open-ended employment contracts with all eligible workers after two consecutive fixed-term employment contracts.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory does not provide social insurance to all eligible workers. There are a total 173 workers including two retired but re-recruited workers and two new hires in the factory. According to the social insurance receipt for July 2020, 18 out of 169 eligible workers (11%) were provided with pension, unemployment and work-related injury insurances, and six out of 169 eligible workers (4%) were provided with medical and maternity insurances. As a supplement, the factory has bought group accidental injury insurance for 200 workers, which is valid from May 22, 2020 to May 21, 2021 and has a maximum benefit amount of CNY 100,000 (USD 14,399) per worker. [C.1, C.10]
2. According to compensation procedure and worker and management 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]
3. The factory only keeps payroll records for the most recent 11 months, instead of 24 months as per legal requirement. [C.14.1]
4. The contribution base of the five types of social insurances is not in line with legal requirement. The factory contributes to work-related injury, medical, maternity, unemployment and pension insurances based on local minimum requirement of CNY 1,730 (USD 251) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of previous year. About 90% of workers' average monthly wages of previous year were higher than local minimum contribution base, ranging from CNY 3,000 (USD 435) to CNY 3,500 (USD 507). [C.10.1]
5. The factory does not contribute to Housing Provident Fund for all eligible workers. [ER.22.1]

Local Law or Code Requirement

The China Labor Law, Article 72; The Implementation Measures for Employee Paid Annual Leave, Article 4; The Provisional Regulations on Payment of Wages, Article 6; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15. FLA Workplace Code (Compensation Benchmarks C.1, C.6, C.10 and C.14; Employment Relationship Benchmark ER.22)

Recommendations for Immediate Action

1. <!--[endif]-->Provide social insurance to all eligible workers.
2. <!--[endif]-->Calculate annual leave based on worker's cumulative working experience (working age).
3. <!--[endif]-->Maintain payroll records for at least 24 months as per legal requirement.
4. Contribute to social insurance based on worker's average monthly wage of previous year.
5. <!--[endif]-->Provide all workers with legally required Housing Provident Fund.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Provide social insurance to all eligible workers.
2. Calculate annual leave based on worker's cumulative working experience (working age).
3. Maintain payroll records for at least 24 months as per legal requirement.
4. Contribute to social insurance based on worker's average monthly wage of previous year.
5. Provide all workers with legally required Housing Provident Fund.

Company Action Plan Update

1. the factory started to provide social insurance to all eligible workers.
2. the factory started to calculate annual leave based on worker's cumulative working experience (working age).
3. the factory is committed to maintain payroll records for at least 24 months as per legal requirement.
4. the factory started to contribute to social insurance based on worker's average monthly wage of previous year.
5. the local government doesn't require for providing all workers with Housing Provident Fund. For this reason, the factory management asks arena to overlook this aspect.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. Time records for the period from July 2019 to July 2020 and worker interviews indicate that the monthly overtime hours for about 90% of workers exceeded the 36 hour legal limit in all reviewed months, except February 2020, with a maximum of 143 overtime hours in December 2019. [HOW.1.1]

2. Total working hours regularly exceeded 60 hours in a week. Time records for the period from July 2019 to July 2020 and worker interviews indicate that weekly working hours for 80% of workers exceeded 60 in one to four weeks per month in all reviewed months except, February 2020, May to July 2020 and September 2019, with a maximum of 80.5 hours in the weeks of December 9 to 15 and December 23 to 29, 2019. [HOW.1.3]

3. Workers are not always provided with one day off for every seven-day work period. Time records from July 2019 to July 2020 and worker interviews indicate that around 80% of workers worked seven to thirteen consecutive days once or twice in a month in all reviewed months except, February, June to July 2020, July and November 2019, with a maximum of thirteen consecutive days from March 9 to March 21, 2020 and December 9 to December 21, 2019. [HOW.2]

4. The factory production plan is based on 48-60 hours per week. Factory management sets production targets and the production system at a level that workers need to work eight to twenty 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 Benchmarks HOW.1

and HOW.2)

Recommendations for Immediate Action

1. <!--[endif]-->Ensure overtime hours do not exceed 36 in a month.
2. Ensure that working hours do not exceed 60 in a week.
3. <!--[endif]-->Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.
4. Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should: a) implement FLA Principles of Fair Labor and Responsible Sourcing and b) accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:
 - a. How to provide better order forecasts to the factories;
 - b. Possible workshops/consultancy for the factory on how to improve productivity/quality;
 - c. Clear guidelines on how to extend shipment deadlines in case of contingencies;
 - d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams); e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;
 - f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Ensure overtime hours do not exceed 36 in a month.
2. Ensure that working hours do not exceed 60 in a week.
3. Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.
4. Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should: a) implement FLA Principles of Fair Labor and Responsible Sourcing and b) accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:
 - a. How to provide better order forecasts to the factories;
 - b. Possible workshops/consultancy for the factory on how to improve productivity/quality;
 - c. Clear guidelines on how to extend shipment deadlines in case of contingencies;
 - d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams);
 - e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;
 - f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

Company Action Plan Update

1. Ensure overtime hours do not exceed 36 in a month.
2. Ensure that working hours do not exceed 60 in a week.
3. Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.

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, FOA.10]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmark FOA.2 and FOA.10)

COMPANY ACTION PLANS

Action Plan no 1.

Description

it's not clear what is the finding, if any.

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has never conducted an inspection of the lightning protection system in either the production or dormitory building. [HSE.13]

Local Law or Code Requirement

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

Recommendations for Immediate Action

1. <!--[endif]-->Conduct annual inspection on the lightning protection system and maintain inspection reports.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Conduct annual inspection on the lightning protection system and maintain inspection reports.

Company Action Plan Update

The factory management says that local government doesn't require this kind of reports. For this reason, they ask arena to overlook this aspect, especially in a critical moment like this that we are going through. If this expense can be avoided, it would be better.