



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Team Beans & Forever Collectibles

COUNTRY: China

ASSESSMENT DATE: 08/10/20

ASSESSOR: Openview

PRODUCTS: Other

NUMBER OF WORKERS: 188

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	2
Hours of Work	7
Employment Relationship	4
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 does not sign the employment contract with four out of four temporary workers working in the packing workshop. They are recruited through the production supervisor and do not have any registration with the factory. [ER.7.1]

Local Law or Code Requirement

Law of Employment Contract of PRC, Article 10; FLA Workplace Code (Employment Relationship Benchmark ER.7)

Recommendations for Immediate Action

1. <!--[endif]-->Sign the employment contract with all temporary workers.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

There are 273 workers in the factory, and all are eligible for social insurance. According to the social insurance receipt and name list for July 2020, 123 out of 273 (45%) workers were covered by four types of social insurances, i.e. pension, work-related injury, maternity and unemployment insurances and no workers were covered by medical insurance. The rest 150 workers were not covered by five types of social insurances. The factory has provided commercial accident insurance to 200 workers, valid from July 20, 2020 to July 20, 2021 with

maximum compensation amount of CNY 200,000 (USD 28,848) per worker. [C.1]

The factory pays the regular rate for overtime hours on rest days and statutory holidays, which is not in line with legal requirement of at least 200% and 300% of the regular rate for overtime on rest days and statutory holidays respectively. [C.7.2]

The factory provides paid annual leave to workers with two and more years of service (about 15% of total workforce), which is not in line with legal requirement that workers with one and more years of service are eligible for paid annual leave. [HOW.11]

The factory does not provide paid sick leave to workers. Workers are able to take unpaid sick leave. [HOW.16]

The contribution base of the five types of social insurance is not in line with legal requirement. The factory contributes to pension and maternity insurance based on CNY 3,141.26 (USD 455.25) per month and contributes to work-related injury and unemployment insurance based on CNY 1,590.89 (USD 230.56) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of previous year. About 50% of workers' average monthly wages of previous year were higher than current contribution base, ranging from CNY 3,200 (USD 463.77) to CNY 5,000 (USD 724.63). [C.10.1]

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

Local Law or Code Requirement

The China Labor Law, Article 44 and Article 72; Implementation Measures of workers' Paid Annual Leave, Article 4; Opinion of the Ministry of Labor on Several Questions concerning the Implementation of the China Labor Law, Article 59; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15; FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmarks C.1, C.7 and C.10; Hours of Work Benchmarks HOW.11 and HOW.16)

Recommendations for Immediate Action

1. Provide five types of social insurance including medical insurance to all eligible workers.
2. Pay sufficient overtime compensation based on legal requirements.
3. Provide paid annual leave to all eligible workers.
4. Provide workers with paid sick leave as per legal requirement.
5. Contribute to social insurance based on worker's average monthly wage of the previous year.
6. Provide all workers with legally required Housing Provident Fund.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

Overtime hours exceed the legal limit of 36 hours per month. Time records for the period from August 2019 to August 10, 2020 and worker interviews indicate that the monthly overtime for 25% of workers (mainly working in injection and packing workshops) exceeded 36 hours and up to 120 hours in all reviewed months except January to March 2020. [HOW.1.1]

Total working hours exceed 60 per week. Time records for the period from August 2019 to August 10, 2020 and worker interviews indicate that the weekly working hours for 25% of workers (mainly working in injection and packing workshops) exceeded 60 and up to 77 hours in two weeks per month in all reviewed months. [HOW.1.3]

The factory does not provide workers with one day off for every seven-day work period. Time records for the period from August 2019 to August 10, 2020 and worker interviews indicate that 25% of workers (mainly working in injection and packing workshops) worked 14 consecutive days twice per month in all reviewed months. [HOW.2]

Local Law or Code Requirement

The China Labor Law, Article 38 and Article 41; FLA Workplace Code (Hours of Work Benchmarks HOW.1 and HOW.2)

Recommendations for Immediate Action

1. Ensure overtime hours do not exceed legal limit of 36 hours per month.
2. Ensure total working hours do not exceed 60 per 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 Comment: 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 Benchmark FOA.2)

Recommendations for Immediate Action

Nil

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

One out of two exits in the finished product warehouse on the 5th floor of the Production Building #1 is blocked with products. [HSE.5.1]
The factory has not conducted the joint fire drill with the company renting the 5th floor of Production Building #2 and #3. [HSE.5.1]

Local Law or Code Requirement

China Fire Prevention Law, Article 16 (4); FLA Workplace Code (Health, Safety and Environment Benchmark HSE.5)

Recommendations for Immediate Action

1. Strengthen training to workers and conduct a daily inspection to ensure the safety exits are unblocked and easily accessible.
2. Coordinate the fire safety concerns and risks with the other company located in the same building, including conducting the joint fire drill on an annual basis.

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

About 30% of workers are not wearing earplugs provided by the factory in the injection workshop where there is a high level of noise.

[HSE.8]

The factory does not install handrails on the stairs of about 600mm to 700mm in height leading to the injection machines or on the platforms of about 900mm in height on the injection machines. Although the injection machines are automatic feeders, workers may use the stairs and platforms during maintenance. [HSE.13]

The factory has never conducted the inspection for one air tank with the capacity of two cubic and one air tank with the capacity of one cubic in the air compressor room, both of which have been used for over ten years. [HSE.4]

The factory does not have sufficient qualified operators for bridge gantry cranes. There are six bridge gantry cranes while there is only one qualified operator in the factory. [HSE.4]

Local Law or Code Requirement

The Law of the China on Work Safety, Article 42; Safety of Machinery - Permanent means of access to machines and industrial plants - Part 3: Stairways, stepladders and guard - rails GB17888.3-2008, Article 7.1.2; Special Appliance Quality Safety Monitoring Regulation, Article 28 and Article 38; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.4, HSE.8 and HSE.13)

Recommendations for Immediate Action

1. Strengthen training to workers on the use of personal protective equipment (PPE) and monitor workers to use the PPE consistently.
2. Install handrails on the stairs leading to the injection machines and on the platforms of the injection machines.
3. Conduct annual inspection for the two air tanks and obtain a valid inspection report.
4. Arrange bridge gantry crane operators to attend training provided by the authorized institution and get operator certificates.