



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Patagonia
COUNTRY: China
ASSESSMENT DATE: 09/03/20
ASSESSOR: Openview
PRODUCTS: Headwear
NUMBER OF WORKERS: 310

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
Hours of Work	3
Employment Relationship	3
Health, Safety, and Environment	3
Nondiscrimination	2

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The contribution base of the Housing Provident Fund is not in line with the legal requirement. The factory contributes to the Housing Provident Fund based on the local minimum requirement of CNY 2,480 (USD 362) per month for non-local rural workers (about 60%), which is not in line with the legal requirement of contribution based on worker's average monthly wage of the previous year. About 90% of workers' average monthly wages of previous year were ranging from CNY 3,000 (USD 438) to CNY 4,000 (USD 584), higher than the local minimum contribution base. [ER.22.2]

Local Law or Code Requirement

Regulations on Management of Housing Provident Fund, Article 16. FLA Workplace Code (Employment Relationship Benchmark ER.22)

Recommendations for Immediate Action

1. Contribute to the Housing Provident Fund based on worker's average monthly wage of the previous year.

COMPANY ACTION PLANS

Action Plan no 1.

Description

According to the regulations of Shanghai Housing Accumulation fund Management Center, rural residents can pay the accumulation fund according to the local minimum wage standard. The factory handles accumulation fund to comply with local regulations and standards. Therefore, the factory is in compliance.

Company Action Plan Update

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FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory has obtained the written approval for adopting a Comprehensive Working Hours System, valid from February 1, 2019 to January 31, 2020 and from February 1, 2020 to January 31, 2021 respectively. The total working hours for about 40% of workers exceeded the approved limit of 2,432 hours during the period from February 1, 2019 to January 31, 2020, ranging from 2,440 to 2,464 hours. [HOW.1.1, HOW.8]
2. The factory sets the production plan based on 48 to 63 hours per week (a total of 6 days per week, with 3 overtime hours each day on up to 5 workdays and 8 overtime hours on Saturday). Factory management sets production targets and production system at a level that workers need to work 8 to 23 overtime hours per week. [ER.24]
3. Total working hours exceed 60 hours in a week. Time records for the period from August 2019 to August 2020 indicate that the weekly working hours for about 50% of workers exceeded 60 in one to three weeks per month from March to June 2020, with a maximum of 63 hours in March 2020. [HOW.1.3, HOW.8]

Local Law or Code Requirement

The Opinion of the Ministry of Labor on Several Questions concerning the Implementation of the China Labor Law, Article 65. FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmarks HOW.1 and HOW.8)

Recommendations for Immediate Action

1. Ensure total working hours are in full compliance with the requirements of the Comprehensive Working Hours System.
2. Set the production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
3. Ensure total working hours do not exceed 60 in a week.
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:
 - 1) Implement FLA Principles of Fair Labor and Responsible Sourcing and
 - 2) 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. When the production enters the peak season, the workers of packaging and quality inspection procedures will not be enough. The factory will recruit packaging workers and quality inspection workers. Human resource department is responsible for the recruitment of more workers. The work will be finished by the end of December.

2. The factory has a voluntary overtime management system. Overtime hours are arranged on the basis of 60 hours per week, under the understanding that employees voluntarily choose to work overtime.

3. Due to the COVID-19 outbreak this year, the factory applied to the customer at the end of February to work more than 60 hours per week for the three months until the end of May in order to meet production delivery .

Company Action Plan Update

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FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The Collective Bargaining Agreement (CBA) was in agreement between worker representatives and management but it does not provide any additional benefits to workers and simply restates the factory procedures and legal requirements. None of workers are provided with a copy of the CBA and none of the interviewed workers are aware of the CBA. [ER.16.2]

2. 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 Benchmarks FOA.2 and FOA.10; Employment Relationship Benchmark ER.16)

Recommendations for Immediate Action

- . Provide workers with a copy of the CBA.

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory has arranged all employees to explain the collective contract on October 12th, 13th and 19th, and shown the video to employees to let them know.

The factory will post a copy of CBA on the bulletin board to let the workers know and have access to CBA. If the CBA clause needs to be adjusted, the factory will convene the workers to discuss and jointly formulate it.

Company Action Plan Update

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FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has installed needle guards on all sewing machines and provided PPE training for sewing workers. However, about 3% of sewing workers put the needle guards aside and do not use them when operating the sewing machines. [HSE.14.2]
2. There are four fixed ladders installed on the exterior wall of the two 2-floor production buildings (each building has two ladders). However, all four ladders are only equipped with partial safety cages on the top of the ladders, which cannot provide sufficient fall protection. [HSE.13]
3. The inspection report for one out of two forklifts expired on August 21, 2020. The factory hired an authorized institution to conduct the inspection in August 2020 and the report is expected to be issued in October 2020. [HSE.4]

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, Article 5.6.3; The Special Appliance Quality Safety Monitoring Regulation, Article 28. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.4, HSE.13 and HSE.14)

Recommendations for Immediate Action

1. Train and supervise workers to use machine safety guards consistently during working hours.
2. Install sufficient safety cages for the fixed ladders.
3. Hire an authorized institution to conduct annual inspection for forklifts and maintain inspection reports.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Management will continue to conduct training on the use of protective equipment and will conduct random spot checks. This work will be completed by the end of May 2021.

2. Protective cages will be installed on the four fixed ladders to ensure protection against falls. The project will be completed by the end of February 2021.

3. The annual inspection report of the forklift was received within September 2020.

Company Action Plan Update

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