



FAIR LABOR  
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## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: 47 Brand, LLC

COUNTRY: Vietnam

ASSESSMENT DATE: 08/31/20

ASSESSOR: Openview

PRODUCTS: Apparel

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.

FLA Code Element	Number of Violations
Compensation	1
Hours of Work	6
Employment Relationship	5
Health, Safety, and Environment	16
Nondiscrimination	2

## Findings and Action Plans

### FINDING NO.1

#### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Recruitment, Hiring & Personnel Development

##### Finding Explanation

1. Workers with jobs of packing, ironing, and fabric spreading have a probation period from the first day of employment through the end of the same month when it should only be six working days as per the legal requirement. For instance, one packing worker joined the factory on February 11, 2020 and had probation from February 11, 2020 to February 29, 2020. Workers are paid less while in the probation period. [ER.10.1]
2. The factory does not update the annex to the employment contract or provide a copy to workers when their wage in 2020 increased. [ER.10.1]

##### Local Law or Code Requirement

Vietnam Labor Code, Article 27, Article 73 and Article 119, Law No. 10/2012/QH13. FLA Workplace Code (Employment Relationship Benchmark ER.10)

##### Recommendations for Immediate Action

1. <!--[endif]-->Change the probation for workers with simple jobs to six working days as per legal requirement.
2. <!--[endif]-->Update the annex to the employment contract and provide a copy to each worker when there is change in wage as per legal requirement.

### FINDING NO.2

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Compensation

#### Finding Explanation

1. The factory provides workers with a fixed performance bonus every month. This is a fixed allowance provided from the beginning of employment and is based on a worker's ability rather than worker's monthly production output. It is part of the worker's wage and is based on the negotiation between the factory and workers that takes place before signing the employment contract. The performance bonus should be included when calculating overtime compensation and the contribution to the mandated insurance as per the legal requirement. 27 out 161 workers are provided with the performance bonus ranging from VND 340,000 (USD 15) to VND 5,150,000 (USD 222) per month. However, the factory does not include the performance bonus when calculating overtime compensation or contributing to the mandated insurance for those workers. [C.1, C.7]
2. The factory pays the final payout on the 10th of the following month, which is not in line with the legal requirement that the final payout should be paid within seven working days upon contract termination. [ER.18]

#### Local Law or Code Requirement

Vietnam Labor Code, Article 96; Decree 148/2018/ND-CP, Clause 8; Circular 47/2015/TT-BLĐTBXH, Article 4; Circular 59/2015/TT-BLĐTBXH, Article 30. FLA Workplace Code (Compensation Benchmark C.1 and C.7; Employment Relationship Benchmark ER.18)

#### Recommendations for Immediate Action

1. <!--[endif]-->Calculate overtime compensation and contribute to the mandated insurance based on the basic wage and fixed allowances as per the legal requirement.
2. <!--[endif]-->Pay final payout within seven working days upon contract termination as per legal requirement.

## FINDING NO.3

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Hours of Work

#### Finding Explanation

1. Overtime hours exceed the legal limit of 30 hours per month. Time records for the period from August 2019 to August 2020 indicate that the monthly overtime hours for about 2% to 6% of workers exceeded the 30 hour legal limit in June 2020, May 2020 and December 2019, with a maximum of 31.5 overtime hours in May 2020 and December 2019. [HOW.1.1, HOW.8.1]
2. The factory does not have a system to ensure there is one-hour of paid rest time for pregnant workers each day in the seventh month of pregnancy and after. For instance, one pregnant worker reached the seventh month of pregnancy on July 5, 2020 but was not provided with one-hour rest time each day with full payment until July 21, 2020. [ND.8.1]
3. The factory does not provide workers with short breaks during the work shift, which is not in line with the legal requirement that workers shall be provided with short breaks during the work shift. [HOW.3]

#### Local Law or Code Requirement

Vietnam Labor Code, Article 5, Article 107, Article 108 and Article 155; Decree 05/2015/ND-CP. FLA Workplace Code (Hours of Work Benchmark HOW.1.1, HOW.3, and HOW.8.1; Non-discrimination Benchmark ND.8)

#### Recommendations for Immediate Action

1. <!--[endif]-->Ensure overtime hours do not exceed 30 in a month.
2. <!--[endif]-->Provide one-hour of paid rest time each day to female workers in their seventh month of pregnancy and for remaining

time worked during pregnancy.

3. <!--[endif]-->Provide workers with short breaks during work shift as per legal requirement.

## FINDING NO.4

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Industrial Relations

##### Finding Explanation

1. FLA Comment: Vietnam has not ratified ILO Convention 87. Under Vietnamese law, all unions are required to affiliate with the single trade union, the Vietnam General Confederation of Labor (VGCL), which is affiliated with the Communist Party. With respect to such union monopolies, the ILO Committee on Freedom of Association has stated that “the rights of workers to establish organizations of their own choosing implies... the effective possibility of forming... [trade unions] independent both of those which exist already and of any political party.” Vietnam’s legal framework is therefore not compatible with the ILO Principles on Freedom of Association and, as such, all factories in Vietnam fail to comply with the FLA Code standard on Freedom of Association. [FOA.2, FOA.10]

##### Local Law or Code Requirement

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

## FINDING NO.5

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. The factory has conducted a risk assessment, however, the risk assessment does not cover the mechanic room, the fire pump house, the toilet, the electric boiler, the cargo lift or the fabric spreading process. [HSE.1]
2. The factory does not provide certification training on fire fighting and prevention to all 24 members of the internal fire team. [HSE.6.2]
3. The factory has never submitted an occupational accident report to the local authority. [HSE.3.1]
4. The factory is using bottled drinking water purchased from a commercial supplier. However, the factory has never conducted a drinking water test as per legal requirement. [HSE.23.1]
5. The factory does not provide a special health examination to any of the three total canteen workers for transmittable diseases including cholera, dysentery, typhoid, hepatitis A and E, skin infection, tuberculosis, and acute diarrhea. [HSE.22.2]
6. The factory has never contracted authorized organizations to conduct an inspection on the one cargo lift or the six electric boilers. [HSE.4, HSE.14.1]

##### Local Law or Code Requirement

Circular No. 07/2016/TT-BLDTBXH, Article 3; Circular No. 66/2014/TT-BCA, Article 12 and Article 16; Law No. 84/2015/QH13, Article 36; QCVN 01:2009/BYT; Decree No. 155/2018/ND-CP, Article 5; Decree No. 36/2019/TT-BLDTBXH; Decree No. 38/2015/NĐ-CP, Article 39. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.3, HSE.4, HSE.6, HSE.14, HSE.22 and HSE.23)

##### Recommendations for Immediate Action

1. <!--[endif]-->Conduct a risk assessment that covers all risks and appropriate ways to eliminate and control hazards.
2. <!--[endif]-->Provide certification training on fire fighting and prevention to all members of the internal fire team.

3. <!--[endif]-->Submit an occupational accident report to the local authority every six months.
4. <!--[endif]-->Conduct a drinking water test every six months to ensure it is clean and safe.
5. <!--[endif]-->Provide all canteen workers with a special health examination for transmittable diseases.
6. <!--[endif]-->Contract authorized organizations to conduct inspections for the cargo lift and electric boilers. Carry out periodic inspections before the expiration date in a timely manner.

## FINDING NO.6

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Environmental Protection

##### Finding Explanation

1. The factory has never contracted an authorized organization to conduct a wastewater quality test. [HSE.1]
2. The factory does not code, label, or sort the hazardous waste (light bulb, waste oil) by type in the hazardous waste warehouse. [HSE.1]

##### Local Law or Code Requirement

Decree No. 38/2015/NĐ-CP, Article 5. FLA Workplace Code (Health, Safety and Environment Benchmark HSE.1)

##### Recommendations for Immediate Action

1. <!--[endif]-->Contract an authorized organization to conduct a wastewater quality test on an annual basis.
2. <!--[endif]-->Code, label, and sort the hazardous waste by type.