



FAIR LABOR  
ASSOCIATION®

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Hanesbrands

COUNTRY: Vietnam

ASSESSMENT DATE: 08/24/20

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	2
Hours of Work	5
Employment Relationship	6
Health, Safety, and Environment	15
Nondiscrimination	2

## Findings and Action Plans

### FINDING NO.1

#### IMMEDIATE ACTION REQUIRED

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

##### Finding Explanation

1. Helpers undergo a 30-day probation while it should be only six working days, per the legal requirement. [ER.10.1]
2. The factory did not update the annex to the employment contract or provide a copy to workers when their wage increased in 2020 or when workers transfer to other positions. [ER.10.1]
3. The factory applies labor discipline of contract termination to female workers nursing children under 12 months old, which is not in line with local law that requires that no labor discipline of contract termination shall be applied to workers who are pregnant or nursing a child under 12 months old. For instance, one female worker nursing a child under 12 months old was terminated on September 10, 2019 due to a five day absence without prior notice. [ER.14]

##### Local Law or Code Requirement

Vietnam Labor Code, Article 2, Article 27 and Article 123. FLA Workplace Code (Employment Relationship Benchmarks ER.10 and ER.14)

##### Recommendations for Immediate Action

1. <!--[endif]-->Change the probation for helpers 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 or position.
3. <!--[endif]-->Make adjustments to labor discipline practice and do not apply contract termination to workers nursing children under 12 months old.

### FINDING NO.2

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Compensation

#### Finding Explanation

1. The factory does not pay resigned workers for holidays in final payouts. For instance, the last working day for one of twenty-five sample resigned workers was May 9, 2020. The factory did not pay the worker for the two holidays including May 1, 2020 (International Labor Day) and May 2, 2020 (Swapped Hung King Holiday) in their final payout, per the legal requirement. [ER.22.1]
2. The factory does not include the mandated leave not covered by unemployment insurance, including six months of maternity leave and sick leave of 14 days and above, when calculating severance allowance. [C.6]
3. The factory makes a 10.5% deduction from worker monthly wages for a mandated insurance contribution each month. However, when workers take sick leave of 14 days and above in a month, the factory makes the same mandated insurance contribution deduction, which is not in line with legal requirement that workers on sick leave for 14 days and above in a month are not required to make an insurance contribution in that month. [C.1]

#### Local Law or Code Requirement

Vietnam Labor Code, Article 48, Article 95, Article 96 and Article 114; Decree 148/2018/ND-CP, Article 1; Decision 595/QĐ-BHXH, Article 42. FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmarks C.1 and C.6)

#### Recommendations for Immediate Action

1. <!--[endif]-->Pay resigned workers for holidays in final payout, per the legal requirement.
2. Include the mandated leave not covered by unemployment insurance when calculating severance allowance.
3. Make no deduction from worker monthly wages for mandated insurance contribution when workers take sick leave for 14 days and above in a month.

## 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 three sample months of July 2020, March 2020, and December 2019 indicate that the monthly overtime for about 5% to 26% of sample workers exceeded 30 in all three sample months, with a maximum of 76 overtime hours in July 2020. [HOW.1.1]
2. Total working hours exceed 60 hours per week. Time records for three sample months of July 2020, March 2020, and December 2019 indicate that the weekly working hours for about 14% of sample workers exceeded 60 in one to four weeks per month in all three sample months, with a maximum of 76 hours in July 2020. [HOW.1.3]
3. Workers are not always provided with one day off for every seven-day work period. Time records for three sample months of July 2020, March 2020, and December 2019 indicate that about 5% of sample workers (working in packing and cutting sections) worked seven to thirteen consecutive days for once per month in all three sample months. Sample workers worked a maximum of thirteen consecutive days in March 2020. [HOW.2]
4. The factory does not provide workers with short breaks during work shifts, which is not in line with the legal requirement that workers shall be provided with short breaks during work shifts. [HOW.3]
5. The factory did not consult with the Trade Union representative on holiday swapping, as legally required. The factory management team had a meeting on March 21, 2020 and decided to swap Hung King Holiday (April 2, 2020) to May 2, 2020. However, there is no evidence to demonstrate that the Trade Union representative participated in the meeting. [HOW.10]

#### Local Law or Code Requirement

The Vietnam Labor Code, Article 66, Article 70, Article 106 and Article 108. FLA Workplace Code (Hours of Work Benchmarks HOW.1, HOW.2 and HOW.10)

### Recommendations for Immediate Action

1. <!--[endif]-->Ensure overtime hours do not exceed legal limit of 30 hours per month.
2. Control total 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. <!--[endif]-->Provide workers with short breaks during work shift as per legal requirement.
5. <!--[endif]-->Consult with Trade Union representative on holiday swapping as per legal requirement.
6. <!--[endif]-->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) 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.

## 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 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 mark pressing section, workers performing heavy lifting in the material warehouse, the canteen area, or the management dormitory. In addition, the factory has not conducted surveys with workers during the risk assessment, as legally required. [HSE.1]
2. The factory does not provide occupational health examinations for workers with hazardous exposure to dust, noise, and/or chemicals. [HSE.1]
3. The factory has no secondary containment for the oil tank for the air compressor in the air compressor room, where machine oil is leaking on the ground. [HSE.9.1]
4. The factory has provided fabric masks to both workers in the washing room who are exposed to chemicals, which is inappropriate as per Material Safety Data Sheet (MSDS) that requires activated carbon masks. In addition, the factory also provides safety glasses to both workers. However, one of them did not wear the safety glasses when handling chemicals. [HSE.7, HSE.8]
5. The auto sensor is disabled on one of three auto cutting machines. In addition, the safety instructions for the auto cutting machines are in English and Chinese rather than in the local language of Vietnamese. [HSE.14.1, HSE.14.3]
6. The factory has not provided one out of ten canteen workers with a health examinations, as legally required. [HSE.22.2]
7. The factory keeps food samples, while sample containers are not sealed, as legally required. [HSE.22.1]

##### Local Law or Code Requirement

Circular 07/2016/TT-BLDTBXH, Article 3 and Article 5; Circular 04/2014/TT-BLDTBXH, Article 5; Vietnam Labor Code, Article 138; Law 84/2015/QH13; Occupational Safety and Hygiene, Article 21; Decree 155/2018/ND-CP, Article 5; Law on chemical (No. 06/2007/QH12), Article 37. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.7, HSE.8, HSE.9, HSE.14 and HSE.22)

##### Recommendations for Immediate Action

1. <!--[endif]-->Conduct a risk assessment that covers all risks and appropriate ways to eliminate and control hazards. Conduct survey with workers during the risk assessment.
2. <!--[endif]-->Provide occupational health examination to workers with hazardous exposure to dust, noise and chemicals.
3. <!--[endif]-->Provide secondary containment for all chemical containers.
4. <!--[endif]-->Provide appropriate personal protective equipment (PPE) as per MSDS requirement. Train and supervise all workers to use PPE properly during working hours.
5. <!--[endif]-->Enable the auto sensors on auto cutting machines to ensure safe operation. Post safety instructions in local language on the auto cutting machines.
6. <!--[endif]-->Provide health examinations to all canteen workers.
7. <!--[endif]-->Keep food samples in accordance with the guidelines of legal requirement.

## FINDING NO.6

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. One of four fire alarms in the material warehouse and all four emergency lights and exit signs in the finished goods warehouse did not

work during the onsite test. [HSE.5.1, HSE.5.3]

2. The factory has at least 20 fire extinguishers outdoors exposed to weather conditions in the waste storage area, the air compressor areas, and the parking areas, which has caused two of these fire extinguishers to overpressure. [HSE.6.1]
3. The factory has never conducted an inspection of the sprinkler system since it was installed in 2017. The factory conducts a monthly inspection of the diesel pump rather than weekly, as legally required. In addition, the factory conducts a monthly inspection of fire extinguishers, but has never conducted an inspection of the backup fire extinguishers. [HSE.6.1]

#### Local Law or Code Requirement

Vietnam Standard TCVN 7435-1:2004, Clause 5.11; Vietnam Standard TCVN 3890:2009, Clause 4.7, Clause 5, Clause 6.1.1, Clause 7.2.2 and Clause 8.3.2; Circular 66/2014/TT-BCA, Article 12. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.5 and HSE.6)

#### Recommendations for Immediate Action

1. <!--[endif]-->Conduct routine maintenance of fire alarm(s), exit sign(s), and emergency light(s) to ensure functionality.
2. <!--[endif]-->Avoid placing fire extinguishers outdoors exposed to weather conditions to ensure functionality.
3. <!--[endif]-->Conduct annual inspection for the sprinkler system, weekly inspection for the diesel pump, and monthly inspection for the backup fire extinguishers as per legal requirement.