



FAIR LABOR  
ASSOCIATION®

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: W.L. Gore & Associates GmbH

COUNTRY: China

ASSESSMENT DATE: 10/13/20

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 200

## 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	1
Employment Relationship	2
Health, Safety, and Environment	5

## Findings and Action Plans

### FINDING NO.1

#### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

##### Finding Explanation

1. The factory has not consulted with workers before arranging them to take five days of annual leave during the Chinese New Year holiday in January 2020. About 70% of interviewed workers are unaware of their annual leave balance. [HOW.12.2]
2. There are a total of 395 workers in the factory, including 37 retired but re-recruited and two new hires. The factory provides five types of social insurance, including work-related injury, unemployment, medical, maternity and pension insurance, to 273 out of 356 (77%) eligible workers. [C.1]
3. The factory contributes to the five types of social insurance based on the local minimum requirement of CNY 3,368 (USD 498) per month, which is not in line with the legal requirement of contribution based on worker's average monthly wage of the previous year. About 69% of workers' average monthly wages of the previous year were higher than local minimum contribution base, ranging from CNY 3,400 (USD 503) to CNY 4,600 (USD 681). [C.10.1]
4. The factory does not provide the legally required Housing Provident Fund to any of the eligible workers. [ER.22.1]
5. The factory does not provide paid leave for prenatal tests for two pregnant workers, who have been working for nine months of pregnancy before taking maternity leave, as legally required. Workers are not aware that they are allowed to take paid leave for parental tests.[ND.8.1]

##### Local Law or Code Requirement

The China Labor Law, Article 72; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15; Special Rules on the Labor Protection of Female Employees, Article 6. FLA Workplace Code (Compensation Benchmarks C.1 and C.10, Hours of Work Benchmark HOW.12, Employment Relationship Benchmark ER.22; Non-discrimination Benchmark ND.8)

##### Recommendations for Immediate Action

1. Consult with workers before determining when annual leave is taken. Provide training so that workers are aware that they can take annual leave any time throughout the year except during the CNY holiday.
2. Provide social insurance to all eligible workers.

3. Contribute to social insurance based on worker's average monthly wage of the previous year.
4. Provide all workers with the legally required Housing Provident Fund.
5. Provide paid leave for prenatal tests for pregnant workers.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1. Factory is required to seek for workers' opinion on annual leave arrangement.
2. Factory should buy all kinds of insurance for the workers.
3. Social insurance contribution should be based on the actual take-home wage (average 12 months)
4. Factory needs to provide the housing fund to workers.
5. Factory must give pay leave to pregnant workers for prenatal examinations.

#### Company Action Plan Update

1. Meeting was held between worker committee and factory management to discuss when workers prefer their 5 day annual leave. It will be taken right during the CNY holiday (meeting minutes, attendance list & notice to workers attached).
2. Factory has started to continue strengthening the concept of insurance to workers. Efforts in promoting insurance will be carried out continuously through worker committee and propaganda (see attached picture). Besides factory has purchased 100% of accident insurance & commercial insurance to ensure better coverage.
3. The guideline is advised by the local government. Factory will keep abreast of the guideline with the officials.
4. Factory will encourage workers who do not have the property to buy the housing provident fund.
5. Meeting was held to discuss pay leave for prenatal examinations. Besides policy was created of paid prenatal examination leave to female workers and notice has been posted (see attached picture).

## FINDING NO.2

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Hours of Work

#### Finding Explanation

1. The factory arranges both female workers in lactation period to work same overtime hours as other workers, including two-hour overtime on weekdays and eight-hour overtime on Saturdays. [ND.8.1]
2. Overtime hours exceed the legal limit of 36 hours per month. Time records for the period from September 2019 to September 2020 and worker interviews indicate that the monthly overtime hours for almost all workers exceeded 36 in all reviewed months except January, February and March 2020, with a maximum of 82 hours in November 2019. [HOW.1.1, HOW.8]
3. The factory sets the production plan based on 58 hours per week (two overtime hours per day on five weekdays and eight overtime hours on Saturday). Factory management sets production targets and production system at a level that workers need to work eighteen overtime hours per week. [ER.24]

#### Local Law or Code Requirement

### Recommendations for Immediate Action

1. Ensure female workers in lactation period do not work overtime.
2. Control overtime hours within the legal limit of 36 hours per month.
3. Set the production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
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 hour 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. Female workers must not work overtime during lactation period.

2./3. Workers must not work more than 36 hours of overtime per month.

#### Company Action Plan Update

1. Meeting was held to discuss that no overtime is allowed for female workers during lactation period; policy is created & executed: no overtime for female workers who are in lactation period; notice has been posted to inform all workers (see attachment)

2./3. Factory is in process to work with production planning dep. to adjust the output target and with production dep. on how to improve the production efficiency. Update will be provided until end of January 21.

## 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, FOA.10]

#### Local Law or Code Requirement

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

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Factory should be proactive in labor relations.

#### Company Action Plan Update

Factory has set up an assembly with workers as well as worker committee. Workers' representatives represent the interest of all employees of the company. These kind of meetings will be held regularly to safeguard the rights and obligations of employees and serve their vital interests.

## FINDING NO.4

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Health & Safety

#### Finding Explanation

1. The factory has no automatic sprinkler system or automatic fire alarm system for the production building that covers 3,290.7 square meters. [HSE.5.1, HSE.6.1]
2. The factory stores materials and products against the wall with no clearance in the material and finished goods warehouse, which is not in line with the legal requirement of at least 0.5m clearance from the wall. [HSE.1]
3. The factory has not conducted the pre-assessment of occupational disease hazards or the assessment of the effects of occupational disease hazards since it was founded on February 29, 2012. The factory contracted a licensed service provider to conduct the assessment of current conditions of occupational disease hazards on September 3, 2020. However, the report has not been released yet. [HSE.4]
4. The factory has never conducted an inspection for the lightning protection system located on the 2-story production building. [HSE.13]

#### Local Law or Code Requirement

Code for Fire Protection Design of Buildings GB50016-2014, Article 8.3.1 and Article 8.4.1; Rules for Storage Fire Prevention Safety Management, Article 18; The China Law of Prevention and Control of Occupational Diseases, Article 17 and Article 18; Technical Specifications for Inspection of Lightning Protection System in Building, Article 6. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4, HSE.5, HSE.6 and HSE.13)

## Recommendations for Immediate Action

1. Install an automatic sprinkler system and automatic fire alarm system in the production building.
2. Store materials and products with at least 0.5m clearance from the wall in the material and finished goods warehouse as per legal requirement.
3. Coordinate with the licensed service provider to obtain the report on the assessment of current conditions of occupational disease hazards.
4. Hire a qualified service provider to conduct the inspection for the lightning protection system and obtain the inspection report.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

1. Factory is going to install automatic sprinkler & fire alarm system.
2. All materials must be placed at least 0,5 meters away from the wall.
3. Factory needs to conduct an assessment on occupational hazards.
4. Factory needs to conduct regular checking on the lightning protection system.

#### Company Action Plan Update

1. Factory was not aware of this requirement as local government didn't call out this issue during inspection. Factory has already reached out to landlord proposing a meeting to discuss the installation of sprinkler system (see letter attached). Implementation should be completed until end of December 2020.
2. Warehouse and packaging departments were trained on this requirement and have arranged to sort the materials and maintain the placement 0,5 meters from the wall (see picture attached).
3. Assessment was conducted - see attachment, result is acceptable.
4. Factory has contacted a qualified company to conduct the lightning protection testing. Report is issued without concerns or issues - see report attached.