



**COMPANY: Under Armour, Inc.**  
**COUNTRY: Vietnam**  
**ASSESSMENT DATE: 11/10/15**  
**MONITOR: Global Standards (Vietnam)**  
**PRODUCTS: Other**  
**PROCESSES: Cut, Sew**  
**NUMBER OF WORKERS: 3737**  
**NUMBER OF WORKERS INTERVIEWED: 93**  
**ASSESSMENT NUMBER: AA0000001927**

## **What's Included in this Report**

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# Understanding this Assessment Report

This is a report of a workplace assessment conducted by Fair Labor Association assessors following FLA's Sustainable Compliance methodology (SCI), which evaluates a facility's performance in upholding fair labor standards through effective management practices throughout the entire employment life cycle.

This report identifies violations and risks of noncompliance with the Fair Labor Association Workplace Code of Conduct in its assessment of the employment functions, and includes a description of the root causes of violations, recommendations for sustainable and immediate improvement, and the corrective action plan for each risk or violation as submitted by the company. This document is not a static report; rather, it reflects the most recent progress updates on remediation in the "Progress Update" section for each finding.

## Glossary

**De minimis:** A de minimis factory is a factory (1) with which the Company contracts for production for six months or less in any 24-month period; or (2) in which the Company accounts for 10% or less of the annual production of such facility. The FLA Charter states that in no event shall de minimis facilities constitute more than 15% of the total of all facilities of a Company, and the list of facilities designated as de minimis by a Company is subject to the approval of the FLA. Please note that collegiate-producing factories cannot count as de minimis.

**Facility performance:** how a facility rates in terms of a particular employment or management function, with 100% being the best possible score.

**Fair labor standards:** the minimum requirement for how workers should be treated in a workplace, as outlined in the [FLA Workplace Code of Conduct](#).

**Employment life cycle:** all aspects of an employee's relationship with the employer, from date of hire to termination or end of employment.

**Code violation:** failure to meet standards outlined in the FLA Workplace Code of Conduct in the workplace implementation of employment or management functions.

**Employment Functions:** The different components of the relationship between management and employees in a factory. An employment function is a process regulating an aspect of the employment relationship, such as the recruitment of workers. All employment functions together constitute the employment relationship between an employer and an employee.

1. Recruitment, Hiring & Personnel Development (e.g., performance reviews)
2. Compensation (e.g., wages, health care)
3. Hours of Work (e.g., overtime, documentation of working hours)
4. Industrial Relations (e.g., collective bargaining agreements)
5. Grievance System (e.g., worker communication with management)
6. Workplace Conduct & Discipline (e.g., discrimination, harassment)
7. Termination & Worker Retrenchment (e.g., downsizing, resignation)
8. Health & Safety (e.g., exposure to chemicals)
9. Environmental Protection (e.g., energy saving)

**Management functions:** violations or risks related to an employment function could be caused by the absence – or a problem in the operation – of any one of the management functions or in more than one.

1. Policy
2. Procedure
3. Responsibility & Accountability
4. Review Process
5. Training
6. Implementation
7. Communication & Worker Involvement
8. Support & Resources (only for the in-depth level)

**Finding:** indicators of potential gaps between desired and actual performance of the workplace on different employment functions.

### Finding type

- **Immediate action required:** discoveries or findings at the workplace that need immediate action because they not only constitute an imminent danger, risk the workers' basic rights, threaten their safety and well-being or pose a clear hazard to

the environment, but also are clear non-compliances with the FLA Workplace Code of Conduct and local laws. Examples include a finding by the assessor that crucial fire safety elements are not in place or that there is underpayment of wages and/or worker entitlements or that there is direct discharge of waste water, etc.

- *Sustainable improvement required*: findings that require sustainable and systematic actions. The factory will be asked to tackle the underlying root causes and to do so in a long-term and systematic manner to bridge the gap between actual and desired performance. Examples include a finding by the assessor that there is lack of termination policies and procedures in the workplace, lack of grievance system, etc.
- *Notable feature*: indicates a remarkable feature or best practice at a workplace. Examples might include workers' wages and benefits that are significantly above the industry average, or community benefits such as free daycare.

**Local law or Code Requirement**: applicable regulations and standards in a workplace, which serve as the basis for an assessment, as per local law or FLA Workplace Code of Conduct. When these two do not concur, the stricter of the two standards applies.

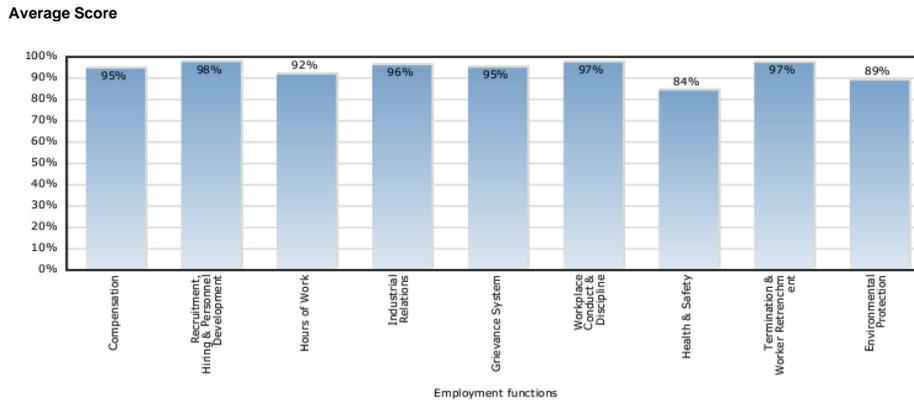
**Root causes**: a systemic failure within an employment function, resulting in a "finding." Findings are symptoms of underlying problems or "root causes." Consider, for example, the case of workers not wearing hearing protection equipment in a high noise area. The most expedient conclusion might be that the worker did not use the hearing protection equipment because such equipment was not provided by management. However, upon a more thorough evaluation of available information, the assessor might find that the worker was indeed supplied with hearing protection equipment and with written information about the importance of wearing hearing protection, but was not trained on how to use the equipment and that use of the equipment was not enforced in a consistent manner by management.

**Company action plan**: a detailed set of activities outlined by the sourcing company and/or direct employer to address FLA findings.

# Factory Profile

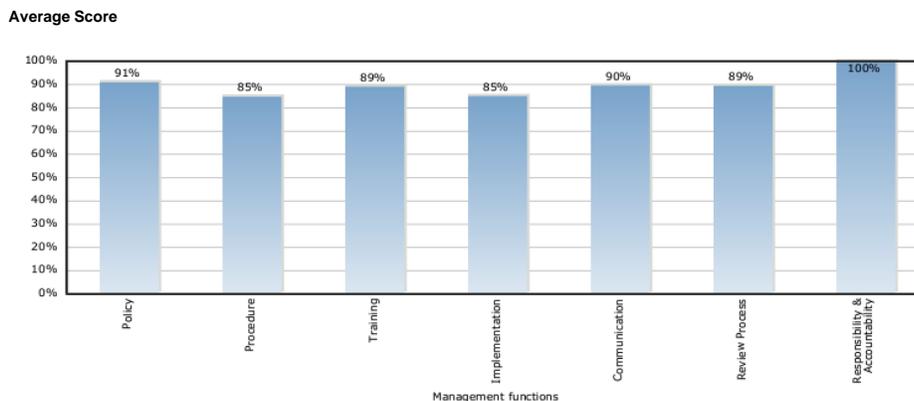
## Score by Employment Function

Scores indicate a factory's performance related to a specific employment function based on an FLA assessment. A score of 100 percent indicates flawless operation of an employment function. A score of less than 100 percent indicates need for improvement.



## Score by Management Function

Scores indicate a factory's performance related to a specific management function based on an assessment conducted for FLA by independent, accredited assessors. A score of 100 percent indicates flawless operation of a management function. A score of less than 100 percent indicates need for improvement.



## Score Summary

Scores indicate the strength of management functions as they relate to different elements of the employment relationship (employment functions). For example (reading left to right), a score of 100 percent in the cell on the top left corner would indicate the existence of appropriate policies related to recruitment, hiring and personnel development.

Management Functions	Recruitment, Hiring & Personnel Development	Compensation	Hours of Work	Industrial Relations	Grievance System	Workplace Conduct & Discipline	Termination & Worker Retrenchment	Health & Safety	Environmental Protection
Policy	100%	100%	100%	100%	75%	100%	100%	100%	83.33%
Procedure	100%	100%	100%	100%	100%	100%	100%	80.65%	20%
Responsibility & Accountability	100%	100%	100%	100%	100%	100%	100%	100%	100%
Review Process	100%	100%	100%	100%	100%	100%	100%	100%	33.33%
Training	88.46%	100%	100%	100%	100%	75%	66.67%	90%	87.5%
Implementation	96.33%	91.49%	75.81%	88.46%	75%	100%	100%	78.7%	93.5%
Communication	100%	87.5%	100%	100%	100%	83.33%	66.67%	100%	100%

## 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	Violations
Compensation	3	General Compliance Compensation Voluntary Wage Deductions Workers Awareness and Understanding of Compensation
Employment Relationship	10	General/Human Resource Management Systems Terms and Conditions/New Employee Orientation Terms and Conditions/Communication Terms and Conditions/Supervisor Training General/Documentation and Inspection Administration of Hours/Production and Incentive Schemes Industrial Relations Industrial Relations/Right to Organize, Bargain and Participate in Legal Strikes Work Rules and Discipline Termination and Retrenchment/General Policies and Procedures
Freedom of Association and Collective Bargaining	2	General Compliance Freedom of Association Deduction of Union Dues and Other Fees
Hours of Work	4	General Compliance Hours of Work Rest Day Maintenance of Reasonable Levels of Staff Forced Overtime/Exceptional Circumstances
Health, Safety and Environment	8	General Compliance Health, Safety, and Environment Material Safety Data Sheets/Workers Access and Awareness Protection Reproductive Health Machinery Safety, Maintenance and Workers Training Ergonomics Sanitation in Workplace Facilities Evacuation Requirements and Procedure Chemical Management and Training
Non-Discrimination	1	Protection and Accommodation of Pregnant Workers and New Mothers

## Findings and Action Plans

### FINDING NO.1

### RECRUITMENT, HIRING & PERSONNEL DEVELOPMENT

**FINDING TYPE:** Sustainable Improvement Required

## Finding Explanation

1. The factory does not provide specific training for relevant supervisors on Recruitment, Hiring, & Personnel Development.

## Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.17)

## **COMPANY ACTION PLANS**

1. Immediate Action Required:

The factory must identify the person who will engage qualified 3rd party service provider to conduct documented specific training on Recruitment, Hiring, & Personnel Development for relevant supervisors.

**Action plan status:** Planned

**Planned completion date:** 06/24/16

## **FINDING NO.2**

## **COMPENSATION**

### **FINDING TYPE:** Immediate Action Required

## Finding Explanation

1. The factory does not communicate the Wages & Benefits policies and procedures and their updates according to local law and FLA Workplace Code and Benchmarks to the general workforce.
2. The factory employs 24 migrant workers (Korean, Filipino, and Indian) that are part of managerial staff, but does not enroll these employees in national health insurance, as required by law.

## Local Law or Code Requirement

Health Insurance Law, Article 12; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, ER.16, and ER.17; Compensation Benchmarks C.1, C.11, and C.17)

## Recommendations for Immediate Action

1. Ensure that all workers, including migrant workers, are enrolled in national health insurance.

## **COMPANY ACTION PLANS**

1. Immediate Action Required

1. The factory must identify the person who will conduct documented educational sessions (in, and with materials in,) Vietnamese and Korean and any other applicable dialects and languages, with its workers, supervisors and managers about their legal rights and responsibilities, and its written personnel policies covering topics such as: a) wages; b) benefits; c) deductions; d) vacations; e) leave; f) regular hours; g) overtime hours; h) regular and overtime pay rates; i) the Under Armour Code of Conduct; j) the Fair Labor Association's Workplace Code of Conduct (<http://www.fairlabor.org/our-work/labor-standards> and related benchmarks ;k) incentive schemes; l) promotion; m) job-re-assignment, and n) compliance with all applicable laws. Going forward, the factory also must address these topics with newly hired personnel in documented meetings. Assign someone responsible to review changes/updates in local law/ code of conduct and internalize those changes in the factory's policies, procedures and practices.

2) The factory must identify the person who will ensure that all employees, including all foreign workers, who have signed labour contracts from more than 3 months must participate in contributed health insurance. The factory must send us evidence, including a chart listing each foreign worker (24, at the time of the audit) by name, with their photographs, their work identification number, their job/task, their shift, their date of hire, the date on which they signed their labor contracts, and the date on which the factory: a) Registered them with the appropriate governmental or other entity for, and b) began to make documented contributions for their insurance. Additionally, if there also is an employee contribution, then the factory must conduct documented education with each employee in their primary language about the nature and scope of coverage and the respective contributions and any legally required/permitted deductions and such deductions must be specifically itemized and document in each worker's pay slip.

Action plan status: Planned

Planned completion date: 07/08/16

## FINDING NO.3

### HOURS OF WORK

#### FINDING TYPE: Immediate Action Required

##### Finding Explanation

1. The factory does not have accurate and verifiable time record and pay roll systems. The factory uses multiple time-keeping systems: a finger print system to record regular working hours and overtime under 30 hrs/month, and a manual recording system by officers (confirmed by workers at the end of the month) to record work done on Sundays. Excess overtime above 30 hours per month and work done on Sundays (considered overtime) is paid under the so called "productivity bonus". Due to the multiple time-keeping systems used to conceal excess overtime and Hours of Work on Sundays from auditors, accurate compensation of Hours of Work, including overtime compensation could not be fully verified.
2. Workers worked excessive overtime, exceeding legal limits, (over 4 hours/day, over 30 hours/month, and over 300 hours/year) in the reviewed period. A review of 50 monthly cases from November 2014 to October 2015 showed that the maximum overtime hours were six hours a day violating local law limiting daily overtime to four hours per day.
3. Monthly overtime hours exceeded the legal limit of 30 hours per month:
  - a. November 2014: 72% of reviewed cases worked overtime from 40 hours/month to a maximum of 76 hours/month. The average overtime hours were 44.59 hours.
  - b. December 2014: 83% of reviewed cases worked overtime from 31 hours/month to a maximum of 86 hours/month. The average overtime hours were 53.6 hours.
  - c. January 2015: 84% of reviewed cases worked overtime from 32 hours/month to a maximum of 84 hours/month. The average overtime hours were 55.61 hours.
  - d. February 2015: 59% of reviewed cases worked overtime from 32 hours/month to a maximum of 46 hours/month. The average overtime hours were 29.31 hours.
  - e. March 2015: 69% of reviewed cases worked overtime from 32 hours/month to a maximum of 82 hours/month. The average overtime hours were 49.45 hours.
  - f. April 2015: 89% of reviewed cases worked overtime from 33 hours/month to a maximum of 76 hours/month. The average overtime hours were 50.47 hours.
  - g. May 2015: 84% of reviewed cases worked overtime from 34 hours/month to a maximum of 110 hours/month. The average overtime hours were 54.81 hours.
  - h. June 2015: 27% of reviewed cases worked overtime from 31 hours/month to a maximum of 86 hours/month. The average overtime hours were 23.5 hours.
  - i. 46% of reviewed cases worked from 317 hours to a maximum of a total of 591 hours in the last 12 months, from November 2014 to October 2015.
4. The sum of regular and overtime hours in a week exceeded 60 hours. The maximum working hours were 48 hours for regular working plus 36 hours for overtime. (There were too many cases to count).
5. The factory had workers working from 1 to 3 Sundays per month from November 2014 to May 2015 without a compensatory day the following week. Thus, workers worked more than 7 days without a legally required rest day in several cases. A review of 50 monthly cases from November 2014 to October 2015 showed that:
  - a. November 2014: 2% of reviewed cases worked on 2 Sundays.
  - b. December 2014: 2% of reviewed cases worked on 1 Sunday and 2% of cases worked on 2 Sundays.
  - c. January 2015: 2% of reviewed cases worked on 1 Sunday, 2% of cases worked on 2 Sundays and 2% of cases worked on 3 Sundays.
  - d. February 2015: 6% of reviewed cases worked on 1 Sunday and 32% of cases worked on 2 Sundays.
  - e. March 2015: 6% of reviewed cases worked on 1 Sunday, 40% of cases worked on 2 Sundays, and 6% of cases worked on 3 Sundays.
  - f. April 2015: 22% of reviewed cases worked on 1 Sunday, 12% of cases worked on 2 Sundays, and 6% of cases worked on 3 Sundays.
  - g. May 2015: 14% of reviewed cases worked on 1 Sunday, 28% of cases worked on 2 Sundays, and 2% of cases worked on 3 Sundays.

##### Local Law or Code Requirement

Labor Code on Overtime Working, Article 106; FLA Workplace Code (Employment Relationship Benchmarks ER.23.4 and ER.24; Hours of Work Benchmarks HOW.1, HOW.2, HOW.6, and HOW.8)

##### Recommendations for Immediate Action

1. Cease the use of multiple time-keeping systems immediately. Ensure that all Hours of Work, including overtime are properly compensated.
2. Ensure that workers receive 24 consecutive hours off for every 7-day working period. Sunday work requires a compensating day off.
3. Ensure workers do not work more than the legal overtime limit of 30 hours per month.
4. Ensure that workers do not work more than the legal overtime limit of four hours per day.
5. Ensure that workers do not work more than 60 hours per week as per FLA Benchmarks.
6. Establish a system to control working hours and introduce procedures for overtime hours in extraordinary circumstances.
7. Ensure that Hours of Work are accurately recorded, including overtime and work done on Sundays. Regularly train and communicate policies on Hours of Work to the general workforce.
8. Provide factory management with ongoing training on policies regarding Hours of Work.
9. FLA affiliate Company's Production, Sales, and Social Compliance teams should: a) implement FLA Principles of Fair Labor and Responsible Production and b) accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:
  - a. Review of the factory's production capacity and planning;
  - b. Possible workshops/consultancy for the factory on how to improve productivity/quality;
  - c. Clear guidelines on how to make shipment deadline extension requests in case of contingencies;
  - d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with a 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 temporary workers to avoid excessive overtime or request use of an approved subcontractor.

## COMPANY ACTION PLANS

### 1. Immediate Action Required

The factory management must identify to us the manager(s) that will ensure:

1. To cease the use of multiple time-keeping systems immediately. Ensure that all Hours of Work, including overtime are properly documented and compensated;
2. Workers must receive 24 consecutive hours off for every 7-day working period. Sunday work requires a compensating day off.
3. Management is to retroactively provide the 5% workers who worked on Nov 2014 to May 2015 with either, based upon each worker's choice, to be documented in writing, a paid day off, or payment for a day as compensation for working 14 consecutive days without a day of rest
4. Workers do not work more than the legal overtime limit of 30 hours per month.
5. Workers do not work more than the legal overtime limit of 4 hours per day.
6. Workers do not work more than 60 hours per week as per FLA's Hours of Work Benchmarks.
7. To establish a system to control working hours and introduce procedures for overtime hours in extraordinary circumstances.
8. Hours of Work are accurately recorded, including overtime and work done on Sundays. Regularly train and communicate policies on Hours of Work to the general workforce.
9. To provide factory management and workers with ongoing training on policies regarding Hours of Work.
10. Under Amour's affiliate Company's Production, Sales, and Social Compliance teams should: a) implement FLA Principles of Fair Labor and Responsible Production and b) accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:
  - i) Review of the factory's production capacity and planning;
  - ii) Possible workshops/consultancy for the factory on how to improve productivity/quality;
  - iii) Clear guidelines on how to make shipment deadline extension requests in case of contingencies;
  - iv) Steps that factory management must follow if overtime is inevitable (steps for how to communicate with a brand's Sourcing and Social Compliance teams);
  - v) Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;

**Action plan status:** Planned

**Planned completion date:** 06/17/16

### 2. Sustainable Improvement Required:

The factory must identify the top and middle management personnel from Pungkook corporation and Pungkook Saigon Two, who will: 1) conduct documented and regular (daily, weekly and monthly) documented and regular analyses of the factory's hours of work with a view to progressively reducing excessive hours of work; 2) demonstrate and issue a written commitment to reduce overtime and 3) alter its personnel practices to make a documented effort to maintain a level of staffing that is reasonable in view of predictable or continuing fluctuations in business demand. Factory management is to: address its

excessive hours issues:

1. If established to be necessary, by jointly working with its customers on how to provide better order forecasts;
2. Participating in workshops/engaging a consultancy for the factory on how to improve productivity/quality;
3. if established to be necessary, by jointly working with its customers to develop clear guidelines on how to extend shipment deadlines in case of contingencies;
4. the creation of steps that management must follow if overtime is inevitable (steps for how to communicate with Under Armour's Sourcing and Sustainability teams and other customers);
5. clear guidelines on calculating and setting reasonable production targets that will not demand work beyond regular working hours or during breaks; and
6. Developing clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

**Action plan status:** Planned

**Planned completion date:** 07/08/16

## FINDING NO.4

### TERMINATION & RETRENCHMENT

#### FINDING TYPE: Sustainable Improvement Required

##### Finding Explanation

1. The factory never arranges consultation meetings with workers or worker/union representatives before management reaches any final decisions on layoffs.
2. The factory does not provide ongoing training for employees on Retrenchment.

##### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.32)

### COMPANY ACTION PLANS

#### 1. Immediate Action Required:

The factory management must identify to us the manager(s) that will ensure with immediate effect:

- 1) There is formal arrangement of consultation meetings with workers or worker/union representatives before management reaches any final decisions on layoffs;
- 2) To conduct documented training on Retrenchment for employee and ongoing to include the training topic in the new employee orientation program.

**Action plan status:** Planned

**Planned completion date:** 06/24/16

#### 2. Sustainable Improvement Required:

1. The factory must identify the top and middle management personnel from Pungkook corporation and Pungkook Saigon Two, must:

- i) Engage in documented consultations with appropriate worker representatives when it is proposed to dismiss employees, this includes: a) Appropriate representatives are either representatives of a recognized trade union or other elected representatives of the affected employees.; b) employee representatives is to be elected solely for the purpose of consultation about specific redundancies or they could be part of an existing elected consultative body, for example a works council or welfare committee;
  - ii) The process of consultation must be properly carried out, with a view to reaching agreement with the trade union or other elected employee representatives on key issues that should include ways of:
    - a) avoiding the dismissals, where possible;
    - b) reducing the number of employees to be dismissed;
    - c) mitigating the effects of dismissals.
2. Factory must review and revise the retrenchment policy ensure that: a) Termination policy and b) procedure that include equal opportunity provisions, according to Under Armour and FLA Workplace Code and Benchmark requirements. Include provisions that determine the termination payouts for all types of Termination & Retrenchment.
- i) Regularly train all workers, supervisors, and managerial staff on Termination & Retrenchment policies and procedures.

- ii) Include Termination & Retrenchment policies and procedures in the new worker orientation process.
- iii) Designate staff members the responsibility of overseeing the proper implementation and enforcement of the newly created termination policy and procedures.
- v) Develop a regular review process regarding the newly created Termination & Retrenchment policy and procedures.

**Action plan status:** Planned

**Planned completion date:** 07/08/16

## FINDING NO.5

### INDUSTRIAL RELATIONS

#### FINDING TYPE: Immediate Action Required

##### Finding Explanation

1. The factory has a written policy but does not have written procedures on Industrial Relations and Freedom of Association.
2. The factory has a trade union under the Vietnam General Confederation of Labor (VGCL) that was established in 2002. The current union chairman was elected for the term of 2 years (2012 – 2014), then extended according to the new Labor Union Regulations.
3. Workers elect the representatives of their department. These representatives then elect the Executive Committee, comprised of 14 people; the Executive Committee then elects the chairman. However, the current chairman of the executive committee is the production manager.
4. 100% of the workers are union members. Workers do not sign applications for the union; all of them are automatically enrolled in the union during their first month of employment. The union fee is 10,000VND/month, which is deducted from workers' monthly salary without their written consent.
5. The factory provides an office with necessary equipment for the union to conduct daily meetings and for the union representatives to perform their functions.
6. The factory does not provide workers with copies of the Collective Bargaining Agreement (CBA), and about 90% of the interviewed workers were completely uninformed about the content of the CBA.
7. The CBA was signed on 15 September 2014 for a term of two years. The negotiation and signing process are in compliance with legal requirements.
8. There is a written procedure on dialogue meetings. Three meetings were organized in 2015 with the participation of management representatives and union representatives; however, there was no participation from worker representatives. The dialogue process does not follow the legally required process. According to Article 12 of Decree No. 60/ND-CP, which provides guidance on dialogue meetings: 60 days after ending the last meeting, the employer and chairman of Trade union shall sum up the content of and send a request for a meeting to the other party. Within five working days of receiving the request for the meeting, the employer and chairman of the trade union shall unify the content, time, location, and the participants of the periodic meeting. Within three days of the two parties unifying the content, time, location, and the participants of the periodic meeting, the employer shall issue a decision in writing on holding a periodic meeting. The decision on holding the periodic meeting must be sent to the chairman of trade union at least five working days before the meeting. The results of the dialogue meetings were not communicated to the workforce; most interviewed workers are not aware of these meetings.
9. The all-employee meeting has not been organized by the factory once a year as required by law.
10. About 1200 workers (factory 2B, 2C) did not work and eat to express dissatisfaction with the food on 9 & 10 July 2015. The factory management paid workers for the meal fee (13,500 VND) for these 2 days. A food quality monitoring program was set up and implemented since then to ensure that the food is satisfactory to the workers.
11. FLA Comment: Vietnam has not ratified ILO Conventions 87 or 98. 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 union] [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.

##### Local Law or Code Requirement

Decree No. 60/2013/ND-CP detailing Clause 3 Article 63 of the Labor Law; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.16.2, ER.17, ER.25, and ER.26; Freedom of Association Benchmarks FOA.1, FOA.2, FOA.19, and FOA.24)

##### Recommendations for Immediate Action

1. Cease the practice of deducting union fees from workers' pay without their written consent.
2. Hold the legally required all-employee meeting once a year.

## COMPANY ACTION PLANS

### 1. Immediate Action Required:

The Factory must identify the Top management and team who will ensure:

- 1) The deduction for union member fee is reflected on workers' pay slip;
- 2) Management will seek and maintain written consent for deduction of union fee from workers. Furthermore, create a process to ensure written consent is requested at the time of hiring;
- 3) The factory's its payroll records reflect and itemize all required deductions and supplemental compensatory/additional payments to the government and union fee payments and evidences that it is in compliance with any and all financial responsibilities to social and governmental entities;
- 4) The Union and Worker Representatives have the facilities necessary for the proper exercise of their functions, including access to workplaces;
- 5) Workers are provided with copies of the Collective Bargaining Agreement (CBA), consistent with FLA benchmarks;
- 6) The review and revision all documents and forms/practices implemented during the recruitment and hiring process in order to stop the practice of automatically enrolling workers with the union and have them seek, for themselves, the union for their enrollment/affiliation;
- 7) Human Resources staff establishes and implements an effective internal monitoring procedure to ensure that all policies and procedures, other documents and practices are consistent with the local regulations and FLA benchmarks;
- 8) Union Executive Committee to be comprised of representatives nominated and elected by workers without management interference;
- 9) Elected worker representatives are placed in all existing and future committees (e.g., Health and Safety Committee, Dialog Committee, etc.);
- 10) That dialog meetings follow the legally required process in accordance with article 12 of Decree No. 60/ND-CP and meeting results are communicated to workers in general;
- 11) That laborer conference are to be held 12 months once in accordance with article 14 and 16. Of Decree No. 60/ND-CP for all employees in the company;
- 12) The development/creation and implementation of Industrial Relations and Freedom of Association procedures that would enable workers to consult with and provide input to management through appropriate structures to be developed for this purpose;
- 13) Workers and Management representatives should be trained on new procedures; including non-discrimination and freedom of association standards for personnel in charge of policy/procedure development as well as implementation;
- 14) Assign someone responsible for policy and procedure enforcement/implementation.

**Action plan status:** Planned

**Planned completion date:** 07/08/16

## FINDING NO.6

### WORKPLACE CONDUCT & DISCIPLINE

**FINDING TYPE:** Sustainable Improvement Required

#### Finding Explanation

1. The factory does not provide every worker with a copy of the workplace rules during orientation.
2. The factory does not provide training on Workplace Conduct for relevant HR staff.

#### Local Law or Code Requirement

The Vietnamese Labor Code on Discipline and Material Responsibility, Chapter VIII; Decree No. 05/2015/ND-CP; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, ER.27.2, and ER.27.3)

## COMPANY ACTION PLANS

### 1. Immediate Action Required:

The factory must identify the Top management and/or team who will ensure to provide:

- 1) Every worker with a copy of the workplace rules during orientation;

2) Documented training on Workplace Conduct for relevant HR staff.

**Action plan status:** Planned

**Planned completion date:** 06/24/16

2. Sustainable Improvement Required:

1. The Factory must identify the manager and team who will ensure that it will: I) Immediately conduct formal, documented educational training and meetings for all current employees on each of the following topics: a) wage calculations; b) benefit calculations; c) industrial relations and f) grievance mechanisms, procedures, etc. and II) going forward, that its orientation meetings for all newly hired employees includes specific training on topics including a) wage calculations; b) benefit calculations; c) industrial relations and d) grievance mechanisms, procedures, etc. The meeting topics and subjects covered must include: explanations of the employers' rules, compensation package and policies for human resources, industrial relations, including respect of the right to freedom of association, health and safety, laws regarding workers' rights, working hours, and distribution of the FLA Code through appropriate means, including posters in local language(s) throughout the workplace's common areas.

III) Management must update training on a regular basis (meaning at least every 3 months according to formal documented written schedule or more frequently, if, and as, needed) basis and keep related documentation of changes made and the new training conducted on file on site. IV) Workers are to be provided with written documentation reviewing all the information covered in the orientation briefing and all subsequent and future training and V) workers' attendance at training must be documented by a log and they also should receive and the factory should keep a copy in each worker's file of the training topic summary and materials.

2. The factory must: I) identify the credentialed/trained/knowledgeable manager or 3rd party expert or firm who/that will establish, publish, conduct documented training about, and effectively implement formal, new written labour and environmental, health & safety policies and procedures.

II) Ensure clearly define the responsible/accountable person(s) received documented training for: a) Recruitment, hiring and personnel development; b) Compensation; c) hours of work; d) termination and retrenchment; e) industrial relations; f) workplace conduct and discipline; g) grievance system; h) health & safety and environmental protection, and define, in formal written job descriptions, the name/s and title/s of the person/s with ultimate responsibility /accountability.

**Action plan status:** Planned

**Planned completion date:** 07/08/16

## FINDING NO.7

### GRIEVANCE SYSTEM

**FINDING TYPE:** Sustainable Improvement Required

#### Finding Explanation

1. The factory does not have a policy on Grievance System. The written Grievance procedures do not include a commitment to comply with relevant legal requirements.
2. Although the factory has grievance channels such as suggestion boxes and direct meetings with direct and higher supervisors, there is no evidence that management reviews complaints and grievances and takes appropriate action. The factory does not maintain any documentation in relation to grievance processes.

#### Local Law or Code Requirement

Decree No. 119/2014/ND-CP; FLA Workplace Code (Employment Relationship Benchmarks ER.1.3, ER.2, ER.16, and ER.25.2)

### COMPANY ACTION PLANS

1. Immediate Action Required:

The factory must identify the Top management and/or team who will ensure that: 1) There is a written Grievance policy and procedures: 2) Grievance procedures must include: a) A commitment to comply with relevant legal requirements; b) a reviewing process of workers' complaints and grievances by the management; c) the method and ways to communicate to

worker on appropriate action is taken in addressing to each grievance; 3) there is proper maintenance of any documentation in relation to grievance processes.

**Action plan status:** Planned

**Planned completion date:** 06/24/16

## 2. Sustainable Improvement Required:

The factory must identify the person who will develop and effectively implement comprehensive written grievance: a) policies and b) procedures. The grievance procedures must include:

- 1) A means by which its workers can directly and confidentially report grievances to top management/human resource personnel (for example, by sending text messages to a dedicated H.R. Supervisor's telephone number; an email message to a dedicated H.R. Department email address; making telephone calls to a dedicated H.R. Department hotline or telephone number) without the knowledge of or involvement by supervisors and free from reprisal, retribution and retaliation, and
- 2) A grievance register, in substance reflecting the date and nature of the grievance and the action taken, among other things. Please also confirm that top management will regularly and confidentially meet with employees without supervisors being involved or present. The factory should conduct documented training, and with materials, in Vietnamese and Korean and any other applicable dialects and languages, with its managers, Human Resources personnel and workers about each of the policies and procedures. The factory should document actions it subsequently takes in accordance with, and pursuant to these policies and procedures in any affected managers' and workers' on site personnel files.

**Action plan status:** Planned

**Planned completion date:** 07/08/16

## FINDING NO.8

### ENVIRONMENTAL PROTECTION

#### FINDING TYPE: Sustainable Improvement Required

##### Finding Explanation

1. The factory has an Environmental Protection policy and some procedures, but lacks some elements requested by the FLA: It does not have a commitment to conservation, a review of targets to reduce environmental impacts, a plan to course-correct in case of missed targets, and a statement of the factory management's general support of energy and water efficiency, and a commitment to minimize impacts with respect to air emissions, waste, hazardous materials and other applicable environmental risks. The Environment Management Plan launched in 2013 and has not been updated since. Factory reports meeting to review plan and targets quarterly, but keeps no minutes or other records of these meetings.
2. The Environmental Protection procedures do not cover the following topics: how workers can raise environmental concerns, reporting environmental emergencies, and protections for workers who allege environmental violations.
3. The factory does not review and update its Environmental Protection policy and procedures according to local law and FLA Workplace Code and Benchmarks.

##### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1: Health, Safety & Environment Benchmark HSE.1)

### COMPANY ACTION PLANS

#### 1. Immediate Action Required:

1) The factory must identify the Top management and/or team who will ensure to review the existing Environmental Protection and Procedures that must include: A) The Top Management commitment to conservation; B) a reviewing process of targets to reduce environmental impacts; C) a plan to course-correct in the case of missed targets; and D) statement from Top Management's general support and commitment to: a) Energy and water efficiency; b) minimize impacts with respect to: i) Air emissions; ii) waste; iii) hazardous materials and iv) other environmental risks;

2) The factory must identify the top manager ensuring: A) To review and update the Environment Management Plan launched in 2013; B) to document and record quarterly meeting minutes to review plan and targets; C) The Environmental Protection procedures cover the following topics: i) how workers can raise environmental concerns; ii) reporting environmental emergencies, and iii) protections for workers who allege environmental violations;

3) The factory management must ensure to review and update its Environmental Protection policy and procedures according to: A) Local law and B) FLA Workplace Code and Benchmarks.

**Action plan status:** Planned

**Planned completion date:** 07/08/16

## 2. Sustainable Improvement Required:

The factory must identify the experienced/credentialed 3rd party expert/firm and manager who together will:

- 1) Effectively implement the Environmental Management Plan (EMP) launched in 2013 and communicate its EMP to factory personnel and personnel working on its behalf, including its vendors, contractors and suppliers: A) The EMP must include the revised environmental protection policy with a commitment to minimize the impact of the factory's upstream and downstream activities on its use and generation, as applicable, of energy, water, waste, and hazardous materials; B) to improve the Environmental Protection procedures to include: I) A commitment to conservation; II) a review of targets to reduce environmental impacts; III) a plan to course-correct in case of missed targets; IV) a statement of the factory management's general support of energy and water efficiency; V) a commitment to minimize impacts with respect to: a) air emissions: b) waste: c) hazardous materials and d) other applicable environmental risks: C) ensure that written policies, procedures and controls are sufficient to ensure that the factory: I) Based upon factory conditions, legal requirements and best practices, the factory should adopt practices and controls to ensure that Air emission; II) The factory also must assign someone who is responsible for drafting and effectively implementing written procedures aimed at controlling, and for ensuring that documented environmental monitoring tests are periodically conducted for, the air emission that is generated and emitted internally and externally during the factory's manufacturing processes, and that records of the tests, and any responsive actions (including installing air ventilator to reduce air emission, providing appropriately rated Personal Protective Equipment (masks and respiratory, as applicable); III) Conduct and document environmental management meeting to review and update factory quarterly target performance.
- 2) Develop a formal written procedure that enables workers to raise environmental concerns, and includes protection against retaliation, conduct related documented training and post the procedures and summaries of it in the factory.
- 3) Review and update existing environmental protection policy and procedures accordingly to local law and FLA Workplace Code and Benchmarks;

**Action plan status:** Planned

**Planned completion date:** 07/22/16

## FINDING NO.9

### HEALTH & SAFETY

#### FINDING TYPE: Immediate Action Required

##### Finding Explanation

1. The Health & Safety procedures do not cover the following topics: measures to protect the reproductive health of employees through minimizing exposure to workplace hazards, steps on how to ensure that all personnel, visitors, contractors, service providers safely evacuated, steps on how to ensure that all special categories of workers and children in childcare facilities safely evacuated, and a list of equipment and/or machines that require lockout/tagout.
2. A policy/procedure exists for asbestos and hazardous chemicals, such as Polychlorinated Biphenyl (PCBs); however, the factory has not conducted a survey or test on asbestos and PCB levels.
3. The factory does not conduct specific workplace safety training to designated employees with special responsibilities.
4. Local governmental labor inspectors mandated third party Health & Safety trainings for managers and supervisors in April 2015. However, the factory has not yet conducted these trainings as legally required.
5. Machine guarding in the sewing department is inadequate. The workers do not use most needle guards and eye shields.
6. Machines and workstations in production lack posted safety standard operating procedures (SOP) throughout the production departments.
7. The factory lacks procedures and training for ergonomics and safe lifting. Some warehouse staff were not following proper safety procedures. In addition, the factory does not provide lifting belts to eligible workers.
8. The factory does not post loading limits for the racks in the material warehouse.
9. Workers in the laser cutting section regularly operate machines with covers fully or partially open and no safety interlocks. Standard operating procedures have not been posted and fail to mention the requirement to close the lid. The poster for the requirement to use Personal Protective Equipment (PPE) listed carbon masks, but these were not in use in the cutting department.
10. The use of Personal Protective Equipment PPE is inconsistent throughout the production departments: Workers do not wear or incorrectly wear masks in all areas where glue is used. Workers often use regular masks in place of carbon masks.

- Workers in some areas, such as embroidery, use hearing protection, but workers at in the laser cutting area working with compressed air do not.
11. Glue is applied at workstations throughout the factory, where (in some cases) there is no proper ventilation. In addition, there are no posted safety procedures, and requirements for Personal Protective Equipment PPE. The smell of solvent was strong in some areas where glue was applied in blocks D and E, and the factory has not conducted any detailed testing for chemical solvents or volatile organic compounds (VOC) throughout the production areas where chemicals are used.
  12. The factory records accident reports according to local law, but does not track, analyze, and review the accidents. The factory currently has no tracking or analysis of days lost due to accidents in 2015. Report exists for 2014, but they need better review and follow up.
  13. Workers do not have unrestricted access to all Material Safety Data Sheets (MSDS) in the storage and production areas.
  14. Not all chemical containers in the production areas are appropriately labeled with their contents and main hazards.
  15. Not all employees who work with chemicals know how to work with the chemicals safely.

### **Local Law or Code Requirement**

Vietnam labor code, Chapter IX on HSE, Circular 04/2014/TT-BLDTBXH on PPE; FLA Workplace Code (Health, Safety, & Environment Benchmarks HSE.9, HSE.10, HSE.12, HSE.14, and HSE.17; Nondiscrimination Benchmark ND.8)

### **Recommendations for Immediate Action**

1. Conduct an assessment on asbestos and PCB levels throughout the whole factory.
2. Comply with all mandated third party Health & Safety trainings for managers and supervisors, as required by labor inspectors in April 2015.
3. Ensure that workers use needle guards and eye shields as appropriate machine guarding and Personal Protective Equipment PPE at all times.
4. Provide eligible workers with lifting belts as proper PPE. Regularly train and communicate workers on the requirement to use them.
5. Post loading limits for the racks in the material warehouse.
6. Ensure that workers use PPE at all times, including carbon masks throughout all departments. Train workers on the requirement of PPE usage and regularly communicate them about the requirements.
7. Ensure that in all areas where glue is applied, workers use proper PPE at all times. Conduct a detailed assessment on chemical solvents or volatile organic compounds (VOC) in block D and E to ensure an assessment of potential health hazards.
8. Ensure that workers have unrestricted access to all Material Safety Data Sheets in the storage and production areas.
9. Label all chemical containers appropriately as such with their contents and main hazards.
10. Ensure that all workers working with chemicals are trained on chemical usage and chemical safety.

## **COMPANY ACTION PLANS**

### **1. Immediate Action Required:**

The Factory must identify the manager and team who will ensure that:

1. Review the Health & Safety procedures to improve the measure and taking steps to: A) Protect the reproductive health of employees through minimizing exposure to workplace hazards; B) ensure that all personnel, visitors, contractors, service providers are able to safely evacuate during an emergency; C) ensure that all special categories of workers and children in childcare facilities are able to be safely evacuated during an emergency and E) provide a list of equipment and/or machines that require lockout/tagout in the event of performing: i) Servicing; ii) maintenance and iii) repair work.
2. To engage a qualified/credentialed 3rd party to conduct an assessment on asbestos, Polychlorinated Biphenyl (PCB) levels and any other hazardous chemical throughout the factory;
3. The engage a qualified/credentialed 3rd party to conduct specific workplace safety training to designated employees with special responsibilities.
4. To comply with all mandated 3rd party Health & Safety trainings for managers and supervisors, as required by local government labor inspectors in April 2015;
5. To ensure that workers at all times: a) Use needle guards and eye shields as appropriate machine guarding and b) Personal Protective Equipment PPE. Factory is ensure to implement a documented written PPE use positive incentive/reward/award system that workers: i) Use PPE at all times, including carbon masks throughout all departments; ii) conduct documented training session forcefully emphasizing risks and harms of failing to wear/properly use, PPE and iii) post posters, written in the language(s) understood by its workers and managers, in each workplace showing the necessary and proper use of PPE for each Worker.
6. Machines and workstations in production are posted with safety standard operating procedures (SOP) throughout the production departments.
7. Develop, draft, effectively implementing, conducting documented training about, posting full and summary posters of, formal new written policies and procedures that are sufficient to ensure, that from now on it: a) Provides lifting belts to all employees lifting heavy materials; b) Provides documented initial and periodic refresher training to all employees on proper lifting techniques and use of lifting belts; c) Ensures that Under Armour receives photographic evidence of lifting belts and workers receiving training on lifting belt use; d) Ensuring the training program promotes an ergonomic approach to lifting that includes:

i) Consider alternative ways to accomplish the same lifting or handling; ii) Assess the weight of the object before attempting lifting or handling; iii) Ask for assistance if necessary; iv) Determine the best way to hold or manoeuvre the object before lifting the object; v) During repetitive lifting activities, try to minimize the vertical distance of the lift from origin to destination, and minimize the amount of twisting and bending; vi) Use the legs for lifting rather than the back and vii) use the feet to turn, rather than twisting the trunk of the body; d) POST POSTERS, WRITTEN IN VIETNAMESE, IN EACH WORKPLACE SHOWING THE NECESSARY STEPS FOR WORKER TO APPLY PROPER LIFTING TECHNIQUE AND PROPER USE OF LIFTING BELT FOR EACH WORKER.

8. Post loading limits for the racks in the material warehouse;

9. Workers in the laser cutting section are operating the machines that are: A) Install with full enclosures/covers with safety interlocks; B) Posted with standard operating procedures to mention the requirement to close the lid and C) Post poster for use of appropriate Personal Protective Equipment (PPE) such as carbon activated masks;

**Action plan status:** Planned

**Planned completion date:** 07/08/16

2. Immediate Action Required:

10. Conduct Job Hazard Assessment to ensure that appropriate Personal Protective Equipment (PPE) is provided and consistently used throughout production departments: A) Ensuring that workers exposed to: i) chemicals are provided with carbon activated masks and neoprene gloves; ii) excessive noise at embroidery section and working with compressed air to wear hearing protection.

11. Ensure that in all areas where glue is applied,: a) Workers must be provided with proper PPE at all times such as NIOSH approved standard carbon activated masks and chemical gloves; b) Conduct a detailed assessment on chemical solvents or volatile organic compounds (VOC) in block D and E to ensure an assessment of potential health hazards and c) install effective local ventilation to reduce risk workers exposure to VOC.

12. To set up a system to ensure all accident records and reports are regularly: A) Track; B) analyze; C) review of all incidents and accidents; D) conduct tracking or analysis of days lost due to accidents in 2015; E) review existing 2014 accidents report and G) create a follow up action plan to prevent recurrence.

13. Ensure that workers have unrestricted access (at all times) to all Material Safety Data Sheets in the storage and production areas.

14. Label all chemical containers appropriately as such with their contents and main hazards.

**Action plan status:** Planned

**Planned completion date:** 07/08/16

## FINDING NO.10

### HEALTH & SAFETY

#### FINDING TYPE: Immediate Action Required

##### Finding Explanation

1. The local fire department (so called "fire police") required the factory to install an automatic fire fighting systems (e.g. sprinklers) throughout the factory. Despite reminders at recent quarterly inspections, the factory has failed to develop a plan to comply with the requirements, such as the fire approval for the new building E still pending. The local fire department requested the factory to install sprinklers throughout the factory; however, the factory has installed a sprinkler systems in this building, but has not installed any sprinkler systems in older buildings. Furthermore, there is no automatic electric pump for the sprinkler system although one is reported to be in order for December 2015. The 2014 fire police review specified that the water tank should be larger than 298 m<sup>3</sup>, but the factory records are unclear regarding the exact size and specifications of its fire tank.
2. The factory does not keep any maintenance logs or records of service for the fire alarm system or fire extinguishers in the factory. The factory does not maintain any maintenance and service records for pumps and air compressors.
3. The factory has conducted internal risk assessments for Health & Safety and fire, but there has not been a third party expert fire assessment, as per FLA benchmarks.
4. Assembly areas are not marked clearly and properly on the evacuation maps.

##### Local Law or Code Requirement

TCVN 3890:2009; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.4, HSE.5, and HSE.6)

## **Recommendations for Immediate Action**

1. Comply with applicable local fire regulations and inspections: complete the installation of a fire pump and fire system, get approval for building E, and ensure that sufficient water is available for all buildings.
2. Develop plans that comply with fire inspections for the rest of the factory's older buildings.
3. Keep maintenance logs and records of service for the fire alarm system, fire extinguishers, fire pumps, and air compressors.
4. Carry out a third party expert fire risk assessment and address any issues found.
5. Mark assembly areas properly as part of evacuation plans.

## **COMPANY ACTION PLANS**

### 1. Immediate Action Required:

The factory must identify the licensed, credentialed, authorized and qualified person/3rd party expert/firm who/that will ensure to:

1. Comply with applicable local fire regulations and inspections: a) Complete the installation of an automatic fire pump and sprinkler systems in older buildings as requested by the local fire department; b) obtain an approval for building E, and c) ensure that sufficient water is available for all buildings and with a capacity greater than 298 m<sup>3</sup>;
2. Develop plans that comply with fire inspections for the rest of the factory's older buildings;
3. Keep maintenance logs and records of service for the: a) Fire alarm system; b) fire extinguishers; c) fire pumps, and d) air compressors.
4. Carry out a third party expert Health and Safety risk assessment; including fire risk and address any issues found.
5. Install sufficient directional and exit signs to ensure that all egress routes from all areas of the building to exits are clearly indicated: A) Exit signs should be clearly legible with pictogram and wording in English and the local language; B) Assembly areas outside the building should be designated, and should not interfere with emergency services

**Action plan status:** Planned

**Planned completion date:** 07/08/16