



2011

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL VERIFICATION REPORT*

COMPANY: Maxport
COUNTRY: Vietnam
FACTORY CODE: 880084449HV
MONITOR: OneStep Viet. Co Limited
AUDIT DATE: December 1, 2011
PRODUCTS: Jackets
PROCESSES: Cutting, Sewing, Packing
NUMBER OF WORKERS: 696

FLA Comment: Maxport Limited joined the FLA as a Participating Supplier in 2009. In April 2017, Maxport Limited split into two companies which resulted in four out of eight factories ceasing to be under FLA scope, including the factory in this assessment. Due to the transfer in ownership, Maxport Limited is no longer responsible for the follow-up remediation of findings in the factories no longer under its business and that are no longer under FLA scope.

No retrenchment was caused by the business split, with most of the workers still employed by the respective factories; workers' right to compensation and benefits are adequately ensured. There were no negative impacts on workers as a result of the business split.

*To read the original IEM report of this factory, please visit the FLA website [here](#).
For an explanation on how to read this report, please visit the FLA website [here](#).



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Freedom of Association: Right to Freely Associate

FOA.2 Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers. (S)

Noncompliance

Explanation: [Vietnam-Specific 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 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.

Plan Of Action: Employees of this factory have the right to join or not join in the trade union. We conduct annual trainings for all workers delineating their right to become a union member by sending voluntary letters to our factory’s trade union.

Training is imparted to new employees upon their hire. They are told about the collective bargaining agreement (CBA), suggestion boxes and hotlines and are given documents on labor laws. The factory has 680 employees, 352 of which are trade union members (this includes 15 members of the trade union committee).

Action Taken:

1. The factory conducted annual repetitive trainings on the CBA and other updates for all workers on April 2010.
2. The factory planned to admit about 100 workers who sent voluntary letters to factory’s trade union.



Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified: [IEV December 1-2, 2011](#)

Text:

Pending: All of the workers are members of the trade union, VGCL. The current collective bargaining agreement has been effective since November 23, 2010 and is valid for 3 years. The CBA involves topics on working hours, wages and benefits, apprentice and probation, labor health and safety, reward and discipline, labor dispute settlement, labor target. The monitors did not observe any unreasonable issues within the CBA.

Action Verified Date:

Health and Safety: Evacuation Requirements and Procedure

H&S.9 All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, the installation and maintenance of an employee alarm and emergency lighting systems, ensuring aisles/exits are not blocked and that workers are not blocked within their workstations, employee education, evacuation procedures, etc.) shall be complied with. Workers shall be trained in evacuation procedures. Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually. (S)

Noncompliance

Explanation: 1) During the factory tour, it was noted that:

(a) There was no emergency light installed at the exit of the temporary raw-material warehouse.

(b) There were no records showing the battery life of each light. We were unable to verify the light's ability to guide workers to safety in the event of an emergency.

Legal reference: In accordance with Vietnam Stand of Construction: 439/BXD-CSXD September 25, 1997 standard construction, Point: 11.6.1.5

2) Although photos and a summary of the fire drill were provided, they were not detailed enough (e.g., total time for workers to leave the premises, total time for the whole fire drill) to demonstrate that the factory had conducted a fire drill.

Legal reference: In accordance with Article No.9, Decree No. 35/2003/ND-CP date April 4, 2003 of Vietnam Government

3) It was noted that 3 exit doors in the sewing section were marked with "No Exit" signs. However, these doors were still marked with exit signs and emergency. These doors were wrongly indicated as evacuation points.

As per management interview, the aforementioned "false exits" lead to areas that are under construction. Therefore, factory should lock these 3 exits. That being noted, the total number of exits in the factory still meets the local requirements.

Legal reference: In accordance with the Government Decision 35/2003/ND-CP dated on April 4, 2003 providing guidance on the Vietnam Law of Fire Fighting and Prevention, Article 9, Point 1



Plan Of Action: 1) a) The factory will install emergency lights immediately. b) The factory will develop a way to record the battery life of each light.

2) The factory will have meeting on evacuation improvement. The factory will make sure that all safety team members understand the recordkeeping procedure. The factory will set up cameras for showing the time and date in the photos to see how well organized the response was.

3) The factory will turn off exit signs and emergency lights at 3 exit doors in the sewing section that are temporarily blocked due to construction.

Deadline Date:

Supplier CAP: 1) The factory will work with an electrical team to install emergency lights in the temporary raw-material warehouse. The factory will consult with the compliance department on updating the monthly emergency light checking form.

2) The factory will have a meeting with the compliance department consultancy after the drill.

Supplier CAP Date:

Action Taken: 1) Emergency lights were installed immediately. The factory has established a monthly battery life inspection. This inspection process includes keeping maintenance records of each individual emergency light.

2) The factory held a documented re-cap meeting after the drill. The cameras showing the time and date in the photos have been set up.

3) The 3 exit signs and emergency lights have been turned off.

Plan Complete: Yes

Plan Complete Date: 11/11/2009

Action Verified: No

Action Verified: [IEV December 1-2, 2011](#)

Text:

1) Completed: a) Emergency lights were installed at all exit doors. b) The factory currently checks emergency lights on a monthly basis. A report of checking records indicated the possible duration of emergency battery. A random testing of the emergency lights revealed that they were all working.

2) Completed: Fire drill records had showed the total time workers took to leave the premises and the duration of the fire drill.

3) Completed: From factory tour, it was noted that all exit doors were marked clearly and the appropriate exit signs and emergency lights were placed in all exits for indicated of evacuation.

Sources of evidence: Factory tour observation, factory management interview

Action Verified Date:

Health and Safety: Chemical Management and Training

H&S.13 All chemicals and hazardous substances shall be properly labeled and stored in accordance with applicable laws. Labels shall be placed in the local language and the language(s) spoken by workers, if different from the local language. Workers shall receive training, appropriate to their job responsibilities, concerning the hazards, risks and the safe use of chemicals and other hazardous substances. (S)

Noncompliance

Explanation: During the factory tour, it was noted that waste stuffs were stored with hazardous chemicals (oils, alcohol and petrol).

Legal reference: In accordance with Decree No.68/2005/ND-CP date 20 May 2005 - Article 16.

Plan Of Action: 1. The factory is to arrange a new and separate area to store hazardous chemicals (oils, alcohol and petrol).
2. Chemical store to be arranged with full safety information including chemical store regulation, MSDS, warning signs, name of chemicals in (English and Vietnamese), secondary storage tanks, fire extinguishers, and Personal Protective Equipment (PPE) for stock keeper.

Deadline Date: 01/06/2010

Supplier CAP: The Factory will consult with Compliance Department about safety standards of the chemical storage.

Supplier CAP Date: 11/11/2009

Action Taken: 1. Factory arranged a new and separate area to store hazardous chemicals (oils, alcohols and petrol).
2. Chemical storage has already been arranged with full safety information including chemical store regulation, MSDS, warning signals, name of chemicals in (English and Vietnamese), secondary store tanks, fire extinguishers, PPE for stock keeper.

Plan Complete: Yes

Plan Complete Date: 01/08/2010

Action Verified: No

Action Verified Text: IEV December 1-2, 2011
Completed: From factory tour, it was noted that waste was separated from hazardous chemical.
Sources of evidence: factory tour observation, factory management discussion

Action Verified Date:

Hours of Work: General Compliance Hours of Work

HOW.1 Employers shall comply with all local laws, regulations and procedures concerning hours of work, public holidays and leave. (S)

Noncompliance

Explanation: 1) 10 out of 30 selected workers worked overtime on a daily basis. The current legal limit for daily overtime is 4 hours. Some sewing workers worked up to 8 overtime hours in March 2009. Some packing and QA workers worked up to 12 overtime hours in June 2009. Workers informed the monitor that working long hours is difficult, as they are tired the next day.

2) Total overtime hours of 7 selected employees (out of 30) logged between 306 to 347 hours from February to September 2009. This exceeded the 300 hours stipulated by Vietnamese Labour Law.

Legal reference: In accordance with Vietnam Labour Law, Article 69

Plan Of Action:

1. Management will help workers in each sewing line to improve their productivity so they can do more in less time and receive bonuses for high productivity to catch.
2. To have more production facilities anticipate the over-forecast orders.
3. The factory made a working schedule with details of each month/week/day in 2010 with planned overtime less than 300 hours. HR also has an overtime tracking record to report any potential of excessive overtime.



**Deadline
Date:**

**Supplier
CAP:** One more workshop, with capacity of up to 10 lines, has been built and will be in operation in March 2010. Management built this facility to increase capacity, act as backup for the current facility and to have better overtime management.

**Supplier CAP
Date:**

**Action
Taken:**

1. The factory made a working schedule with details of each month/week/day for 2010 with planned overtime under 300 hours. HR now maintains an overtime tracking record to report any potential of excessive OT to management.
2. An additional workshop, with capacity of up to 10 lines, has been built
3. A newly built annex factory has been in operation since January 2010. This new facility will help to increase capacity and can act as a backup for the current factory and help keep OT under control.

**Plan
Complete:** Yes

**Plan
Complete
Date:** 01/04/2010

**Action
Verified:** No

Action IEV December 1-2, 2011

Verified

Text:

1. Completed According to time records from November 2010 to October 2011, it was noted that workers worked from 1 to 3 hours overtime per day during last 12 months. (Example: sewing workers worked from 1-2 hours in October, 2011)

2. Completed According to records from January to December 2010, it was noted that the total overtime hours of 45 selected employees ranged from 210 to 270 hours overtime during last 12 months.

Sources of evidence: Time record review, management discussion, worker interview, production/non production record review

Action

Verified

Date:

Hours of Work: Rest Day

HOW.2 Workers shall be entitled to at least one day off in every seven-day period. If workers must work on a rest day, an alternative day off must be provided within that same seven-day period or immediately following the seven-day period. (P)

Noncompliance

Explanation: According to payroll and attendance records from February to September 2009, it was noted that 20 out of 35 selected workers worked 3 to 4 Sundays during March and April of 2009. Mechanics worked consecutively from March 2 to 31, 2009 without rest days. Workers also worked 1 to 2 Sundays in May, July and August 2009. It was also noted that workers worked consecutively from May 4 to 23, 2009 without rest days.

Legal reference: In accordance with Vietnam Labour Law, Article 69

Plan Of Action: The factory will help workers in each sewing line to improve their productivity so that they can do more in less time and receive a bonus for high productivity. This will help ensure that workers will have day off every 6 working days. The factory will review the task-list of mechanical team and will arrange a workload to ensure that mechanics have a day off every 6 working days.

Deadline Date:

Supplier CAP: For electrical system setup and new machine installation, the workload will be arranged to ensure that mechanics overtime does not exceed 12 hours per week. A newly built annex factory will help to increase capacity and can act as a backup for the current factory and help keep overtime under control.

Supplier CAP Date:

Action Taken: For electrical system setup and new machines installation, the workload has been arranged to ensure that mechanics have day off every 6 working days. A newly built annex factory will help to increase capacity and can act as a backup for the current factory and help keep overtime under control.

Plan Complete: Yes

Plan Complete Date: 01/04/2010

Action Verified: No

Action [IEV December 1-2, 2011](#)

Verified

Text:

Pending: A review of records from November 2010 to October 2011 revealed that workers worked 1 to 2 Sundays in April 2011. Workers in all sections worked consecutively without a day's rest from April 4 to 10, 2011 (7 days) and April 18 to 28, 2011 (11 days).

Note from factory management: In April 2011, there were 2 holidays (April 12 and 30) and workers wanted to have a long rest period. The factory arranged for workers to work on Sundays to make up for lost time (April 10 would be replaced by April 11, 2011 and April 24 would be replaced by the 29). Therefore the factory was unable to arrange a day off after 6 consecutive days of work

Sources of evidence: Time record review, factory management discussion, worker interview

Action

Verified

Date:

Hours of Work: Time Recording System

HOW.6 Time worked by all workers, regardless of compensation system, shall be fully documented by time cards or other accurate and reliable recording systems such as electronic swipe cards. Employers are prohibited from maintaining multiple time-keeping systems and/or false records for any fraudulent reason, such as to falsely demonstrate working hours. Time records maintained shall be authentic and accurate. (P)

Noncompliance

Explanation: New Finding: While verifying the production records in various sections (cutting & technical) the monitors randomly picked up several production records (e.g. daily fabric spreading, tools handover report) and discovered the following details about Sunday work in March, June and August, 2011 with following details:

*The daily fabric spreading report in the cutting section indicated a production record for March 6 2011, a Sunday.

*The tools handover report in the cutting section indicated production records for June 5 and 26, 2011, both Sundays.

*The tools handover report at technical section indicated a production record for August 28, 2011, a Sunday.

The attendance records provided to the monitor for March, June and August 2011 did not show any evidence of Sunday work. Therefore the overtime compensation/workers' wage/overtime hours could not be verified for the mentioned days in cutting and technical sections.

Note from factory management: According to the explanation (including evidence proving that the inconsistencies were caused by inaccurate reporting) issued by the compliance manager, the people in charge incorrectly recorded these overtime hours; this explains the inconsistencies. The factory confirmed that these individuals did not work overtime on Sundays in 2011.

**Plan Of
Action:**

**Deadline
Date:**

**Supplier
CAP:**

**Supplier
CAP Date:**

**Action
Taken:**

**Plan No
Complete:**

**Plan
Complete
Date:**

**Action No
Verified:**

**Action
Verified
Text:**

**Action
Verified
Date:**

Hours of Work: Overtime/Calculation Over Period Longer Than One Week

HOW.10. Employers are allowed to calculate normal hours of work as an average over a period of longer than one week where local laws, regulations and procedures provide for such a possibility but only when all formal and procedural requirements attached to such calculation (for instance, obtaining official permission from the relevant authorities or limits to the period during which such calculations can be made) are met. The basis for such calculation shall, however, remain at all times the lesser of 48 hours per week or legal limits on hours of work in the country of manufacture or, where such legal limits do not exist, the regular work week in such country. (S)

Noncompliance

Explanation: A review of payroll and attendance records from February to Sept 2009 revealed that 25 out of 35 selected workers worked 12.5 to 18 overtime hours per week in February, March, April and May 2009 and 14-19 overtime hours per week in June, July and August 2009. (Mechanics regularly worked long overtime hours).

As per management interview: Due to the economic crisis in 2008, the factory had a limited number of workers available to produce regular orders, therefore excessive overtime was incurred.

Plan Of Action: The factory will help workers in each sewing line to improve their productivity so that they can do more in less time and earn a bonus for high productivity. This will help ensure that workers have a day off every 6 working days.

Regarding electrical system setup and new machine installation, the workload had been arranged to ensure that mechanics have a day off every 6 working days.

Deadline Date: 11/30/2009

Supplier CAP: Regarding electrical system setup and new machine installation, the workload will be arranged to ensure that mechanics' overtime does not exceed 12 hours per week. A newly built annex factory will help to increase capacity, act as a backup for the current factory and help keep overtime under control.

Supplier CAP Date: 01/04/2010

Action Taken: A newly built annex factory will help to increase capacity, act as a backup for the current factory and help keep overtime under control. Regarding electrical system setup and new machine installation, the workload will be arranged to ensure that mechanics' overtime does not exceed 12 hours per week.

Plan Complete: Yes

Plan Complete Date: 01/04/2010

Action Verified: No

Action Verified [IEV December 1-2, 2011](#)

Text: Completed: A review of time records from November 2010 to October 2011 revealed that workers worked from 48 to 58 working hours (including overtime) per week during last 12 months. (Example: sewing workers worked 10-11 overtime hours per week during October 2011)

Sources of evidence: time record review, factory management discussion, workers interviews

Action Verified Date:
