BETTER WORK

Better Work Vietnam: Garment Industry 2nd Compliance Synthesis Report

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Executive Summary

The Better Work Vietnam program, a partnership of the International Labour Organization and the International Finance Corporation, began conducting independent assessments of working conditions in apparel factories in Vietnam in December 2009. Each of assessment consists of four on-site person days and includes management interviews, union and worker interviews, document reviews, and factory observation.

The goal of the factory assessments is to establish a baseline of performance against which participating factories can work with Better Work Vietnam as a partner to make improvements.

Better Work produces public synthesis reports for each country program two times per year. The goal of these reports is to provide transparent information for all program stakeholders regarding working conditions in the factories participating in the program. Independent research commissioned by Better Work provides evidence that public reporting significantly contributes to continuous improvement in factory compliance levels.

Better Work Vietnam released its first public synthesis report in August 2010, covering the first group of factories assessed by the program. This second public synthesis report includes those first factories as well as an additional set, bringing the total to 64 factories assessed by the program between December 2009 and December 2010.

Since no factory has received a second assessment report, the findings presented here are a continuation of the baseline information presented in the first report. When at least 10 factories have received a second assessment, the synthesis reports will start to indicate the degree to which participating factories have made improvements or faced additional challenges since their first assessment.

The assessment results from the second six months of program operation are consistent with the results found during the first six months. The major areas of non-compliance are quite similar across almost all compliance categories, further strengthening the ability to use this first year of results as an accurate baseline for future comparison.

Assessment results show the following:

- **Child/Young Labor:** The program did not find any cases of child labor during the reporting period. As in the first period, findings in this area relate to lack of adequate procedures for checking documentation and some cases of lack of proper protection for young workers (between 15 and 18 years of age).

- **Forced Labor:** There are two findings in this area. In one case that was previously reported in the first synthesis report, an employer did not have evidence to show they ensure their private employment agency does not use bonded labor. This is not a finding of confirmed bonded labor but rather lack of evidence of a procedure for ensuring proper employment practices of the contracted employment agency. There was also one finding related to forcing workers to work more than 4 hours overtime per day or 300 hours overtime per year. In this case, workers reported that they did not feel they could refuse overtime and were not asked in advance if they agreed to work overtime.

- **Discrimination:** Discrimination findings relate to gender discrimination against males in recruitment policies and advertisements, one case of hiring discrimination based on pregnancy testing, and failure to hire adequate numbers of disabled workers or contributing

to the fund for people with disabilities.. As in the first progress report, there were no other assessment findings based on discrimination.

Freedom of Association and Collective Bargaining: The VGCL is a broad socio-political organization, representing and defending the rights and interests of the working class and the laborers in Viet Nam. All workers and employees who voluntarily participate in an enterprise trade union and contribute membership fees can join the union. The union is formed based on the voluntary will of workers and workers can join it on the voluntary basis.

Assessed factories are largely in compliance with Vietnamese law. However, due to the difference between Vietnamese law and international core labor standards on freedom of association and collective bargaining, all factories fail to comply with international core labor standards regarding the freedom to form or join the union of their choice. These factories are in compliance with other core standards on freedom of association as outlined in the detailed report. , Enterprise-level unions must be approved by and affiliated with the Vietnamese General Confederation of Labor (VGCL).

Core labor standards require that employers do not interfere with the functioning and activities of trade unions, and in particular do not discriminate against workers or job applicants for their membership or activities with trade unions. In the factories monitored, due to historical background, many enterprise union officers are from company managerial staff, causing the factories to fail the non-interference test.

The Vietnamese Labour Code prohibits acts of anti-union discrimination by the employer. Guidelines on the VGCL Statutes (adopted on 6 May 2009) prohibit management staff serving on the company's board of directors to stand for office at enterprise-level trade union elections (although the trade union may accept them as honorary members without decision-making powers). Better Work will be working with VGCL in factories on a pilot basis on this issue during upcoming advisory work.

- **Compensation**: The majority of findings in compensation relate to proper payment of leave entitlements and to payment of proper wages for probationary workers and workers who are receiving vocational training. Assessments also showed issues of non-compliance regarding multiple payroll records.

- **Contracts and Human Resources**: As in the first report, the most common findings relate to development and implementation of grievance processes and failure to establish a functioning Labor Conciliation Council.

- **Occupational Health and Safety**: This continues to be one of the largest areas of non-compliance for participating factories. Key issues include lack of proper labeling, storage and employee training around chemicals and hazardous substances; worker protection; and welfare facilities. Most factories do not have developed systems for managing Health and Safety. The program pays significant attention to this issue during our advisory services work.

- **Working Hours**: Most factories exceed the total number of legal overtime hours and many do not give workers four days of rest per month.

Section I: Introduction and Methodology

Introduction

The Better Work Vietnam program, a partnership between the International Labour Organization (ILO) and the International Finance Corporation (IFC), was launched in July 2009. The program aims to improve competitiveness in the apparel industry by enhancing economic performance at the enterprise level and by improving compliance with Vietnamese labor law and the principles of the ILO Declaration on Fundamental Principles and Rights at Work.

The initial focus of the program is the apparel industry in Ho Chi Minh City and surrounding provinces. The garment sector is among the top two largest export earners for Vietnam. In 2010, total export earnings derived from the textile and garment industry reached US$11.17 billion, making Vietnam the fifth largest garment and textile supplier in the world. The sector is also the largest formal employer in Vietnam, providing jobs for more than 2 million people. Most of the workers are young women migrating from rural areas, who in turn support a number of extended family members through remittances. Over the next five years, Better Work Vietnam will work with 500,000 - 700,000 workers in the Vietnamese apparel industry.

The program engages with participating factories by conducting independent assessments and offering advisory and training services. This report is an overview of findings from the assessments, which in turn form the basis for the individualized advisory work.

As part of its mandate of sharing information with all program stakeholders, and encouraging continuous improvement, Better Work Vietnam will produce two public synthesis reports per year aggregating information on the performance of all participating factories. This is the second report, following the first which was released in August 2010. Like the first report, this report provides only a baseline as none of the factories included have had a second assessment to show change over time.

This second synthesis report provides an overview of the working conditions of 64 factories over the period December 2009 - December 2010. It includes all factories that were also in the first report. These factories employ a total of 105,639 workers, of which more than 83% are women workers. In average, each factory employs 1,650 workers.

Institutional Context

In spite of difficulties and challenges from the world economic crisis, Vietnam experienced impressive growth in 2010. The country's gross domestic product (GDP) is estimated to have increased by 6.8 percent,[1] while the poverty rate fell from 22 percent in 2005 to 9.45 percent in 2010[2]. Both of these figures exceeded the initial targets set by the National Assembly of Vietnam.[3]The country is successfully transitioning from a centrally-planned to a market economy, and joined the World Trade Organization (WTO) in 2007.

[1] Website of Ministry of Planning and Investment, http://www.mpi.gov.vn/portal/pls/portal/docs/9129137.PDF

[2] Website of Authority of Foreign Information Service, http://www.vietnam.vn/c1046n20101201100903334/poverty-rate-falls-to-945-percent-in-2010.htm

[3] Website of Authority of Foreign Information Service, http://www.vietnam.vn/c1046n20101201100903334/poverty-rate-falls-to-945-percent-in-2010.htm

This economic transition is exposing Vietnam to increased competition at the same time it is opening new opportunities for growth. Both the private and public sector are looking for ways to enhance productivity and increase access to international markets. One result – as in many other countries around the world -- is increased pressure for factories to increase their quality while also decreasing costs and improving their turn-around times. This confluence of pressures often leads to increased worker vulnerability.

This transition has also created an increased level of industrial disputation, including strikes.

The National Assembly is currently in the process of discussing revisions to the National Labor Code, in part meant to address these industrial disputes. At the same time, the Vietnamese General Confederation of Labor (VCCL) is debating revisions to the Trade Union Code.

In March 2010, the Ministry of Labor, Invalids and Social Affairs (MoLISA) made an official request to the ILO to provide commentary on the second draft of the code. Among the key areas under discussion are provisions concerning labor contracts, trade unions, worker representation, collective bargaining and dispute resolution.

The ILO sent its official comments to MoLISA in July 2010, and encouraged the Government to share the ILO commentary with other social partners. The most recent set of technical consultation meetings was held in November 2010. The draft labor code revision is expected to be ready and presented to the National Assembly in October 2011.

In the meantime, enterprises face challenges in implementing effective workplace cooperation and meaningful worker representation. One of the cornerstones of the Better Work Vietnam program is the establishment of Performance Improvement Consultative Committees (PICCs) at each factory, comprised of an equal number of management and union representatives. It is these committees that review the program's assessment reports and work collaboratively to develop a factory improvement plan, timeline, and implementation steps.

At the program level, Better Work Vietnam has a Project Advisory Committee (PAC) that advises and monitors the development and progress of program operations. The PAC consists of representatives from the Ministry of Labor, Invalids and Social Affairs (MOLISA), The Vietnam Chamber of Commerce and Industry (VCCI) and The Vietnam General Confederation of Labor (VGCL). Each of these project partners helps Better Work Vietnam to ensure its mandate and operations continue to address the concerns of the program's local social partners.

The program also works closely with international buyers sourcing apparel from Vietnam. The primary mechanism for interaction with the buyers is through regular forums at the headquarters, regional, and local levels. Buyers who participated in the program during the reporting period are listed in Annex B.

Better Work Methodology

Better Work carries out factory assessments to monitor compliance with international labor standards and national labor law. In its factory and industry-level reports, the program highlights *non-compliance* findings. Better Work reports these findings to help factories identify areas in need of improvement. Collecting and reporting this data over time will help factories demonstrate their commitment to improving working conditions.

Better Work organizes reporting into eight areas, or clusters, of labor standards. Four of the clusters are based on fundamental rights at work. Adopted in 1998, the ILO Declaration on Fundamental Principles and Rights at Work commits Member States to respect and promote principles and rights in these four categories, whether or not they have ratified the relevant Conventions.

The four categories of fundamental rights include: (1) freedom of association and the effective recognition of the right to collective bargaining, (2) the elimination of forced or compulsory labor, (3) the abolition of child labor and (4) the elimination of discrimination in respect of employment and occupation.

In particular, the ILO Conventions 29, 87, 98, 105, 100, 111, 138, and 182 provide the framework for compliance with the fundamental rights clusters across all Better Work country programs.

The four other clusters monitor compliance with standards primarily set by national law, so they vary from country to country. The four areas of national labor law include: (1) compensation, (2) contracts and human resources, (3) occupational safety and health, and (4) working time.

Each of the eight clusters is divided into sub-categories. These sub-categories are known as compliance points [CPs]. These CPs are common in all Better Work country programs. Under each CP there is a variable number of detailed questions that varies from country to country. The detailed list of CPs within each cluster is indicated in the table below.

	Compliance Clusters		**Compliance Points**
Core Labour Standards	1	Child Labour	1. Child Labourers 2. Worst Forms 3. Hazardous Work 4. Documentation and Protection of Young Workers
	2	Discrimination	5. Race and Origin 6. Religion and Political Opinion 7. Gender 8. Other Grounds
	3	Forced Labour	9. Coercion 10. Bonded Labour 11. Forced Labour and Overtime 12. Prison Labour
	4	Freedom of Association and Collective Bargaining	13. Union Operations 14. Interference and Discrimination 15. Collective Bargaining 16. Strikes
Working Conditions	5	Compensation	17. Minimum wages 18. Overtime wages 19. Premium Pay 20. Method of Payment 21. Wage Information, Use and Deduction 22. Paid Leave 23. Social Security and Other Benefits
	6	Contracts and Human Resources	24. Employment Contracts 25. Contracting Procedures 26. Termination 27. Discipline and Disputes
	7	Occupational Safety and Health	28. OSH Management Systems 29. Chemicals and Hazardous Substances 30. Worker Protection 31. Working Environment 32. Health Services and First Aid 33. Welfare Facilities 34. Worker Accommodation 35. Emergency Preparedness

	8	Working Time	36. Regular Hours 37. Overtime 38. Leave

Calculating Non-Compliance

Better Work calculates **non-compliance rates** for each factory and reports these in individual factory reports. The non-compliance rate is reported for each subcategory, or compliance point, within a cluster. A compliance point is reported to be non-compliant if even one question within it is found in non-compliance.

In public synthesis reports, Better Work calculates the non-compliance rates for all participating factories in each of these same sub-categories. For example, a non-compliance rate of 100% means that all participating factories were found to have a violation in that area.

While it is a strict indicator, the non-compliance rate is useful for Better Work to aggregate and compare data across countries. However, this number is not sufficient to fully describe the specific circumstances at a factory. For this reason, tables presenting non-compliance findings at the question level are also presented in Section II with the title of **In Focus Tables**. These tables allow the reader to fully appreciate the specific challenges in compliance identified in factory assessments. From this report onwards, the In Focus Tables will report the number of factories found to be non-compliant to each specific question (as opposed to percentages showed in the first synthesis report).

Note on the factories represented in this report

Better Work compiles synthesis reports every six months for each of the country programs. The synthesis reports present a snapshot of the non-compliance situation in the participating industry in the country at the time of the report. The non-compliance findings presented in the synthesis report refer to the total participating industry. As factories are assessed once per year, in some cases the data included in the synthesis reports is older than 6 months.

This second synthesis report presents the aggregated findings of all assessments conducted by Better Work Vietnam as of December 2010. Assessment findings for the factories included in the first synthesis report (August 2010) are repeated in this report.

The next Better Work Vietnam synthesis report will include detailed information on the factories that have received a second assessment visit.

Limitations in the Assessment Process

The assessments carried out by Better Work follow a thorough process to cover the above-mentioned labor standards. The factory assessment reports are based entirely on what was observed, investigated and analyzed during the performance of the assessment. Before the reports become official, factories are given seven days to provide feedback.

Over the period covered in this report, the program made some changes to its assessment methodology and questionnaire as well as to its classifications of non-compliance. These changes were made in consultation with the Program Advisory Committee and in particular, with MoLISA, who offered clarifications on areas of the law needing further interpretation. These changes may

have minor implications for levels of compliance with specific questions or compliance points in the report.

It is important to note that some of the areas covered by the Better Work Vietnam program may be either new or more detailed than the typical social compliance audits that factories may have experienced in the past.

In addition, while findings across factories should be largely comparable, this comparability is not an exact science. Over time, Better Work Vietnam assessors may actually find more issues due to the fact that (a) they have had more experience in their role as assessors and (b) factories that have the highest levels of compliance may be those who are willing to register for the program at the onset.

Some issues are also difficult to assess and report on at the factory level. In particular, certain aspects of Freedom of Association in Vietnam are national-level versus industry or enterprise-level issues. According to Vietnamese law, there is only one legal trade union, the VGCL. As such, every factory will be out of compliance with related questions on freedom of association. However, the report shows variety between enterprises on other aspects of Freedom of Association and Collective Bargaining, such as the degree to which the existing trade union is able to operate independently from management (see Section 2 below for additional details). Better Work Vietnam advisors will work with factories during advisory work on those areas of non-compliance that can be improved within the parameters of Vietnamese law.

In addition, the issue of excessive overtime relates both to factory-level procedures as well as to a more general industry-level challenge for apparel factories in Vietnam and globally. Almost all factories covered in this report exceed the national yearly overtime limit of 300 hours and many also exceed either daily or weekly overtime. Factories face stiff competition on price and quality, along with the expectation of fast turnaround times, factors which lead most to exceed overtime limits and/or use unreported subcontractors. In many cases, factories try to conceal these excessive hours through keeping more than one set of hours' records, an issue which again is broader than the factories covered in this report.

Section II: Findings

Average Non-Compliance Rates

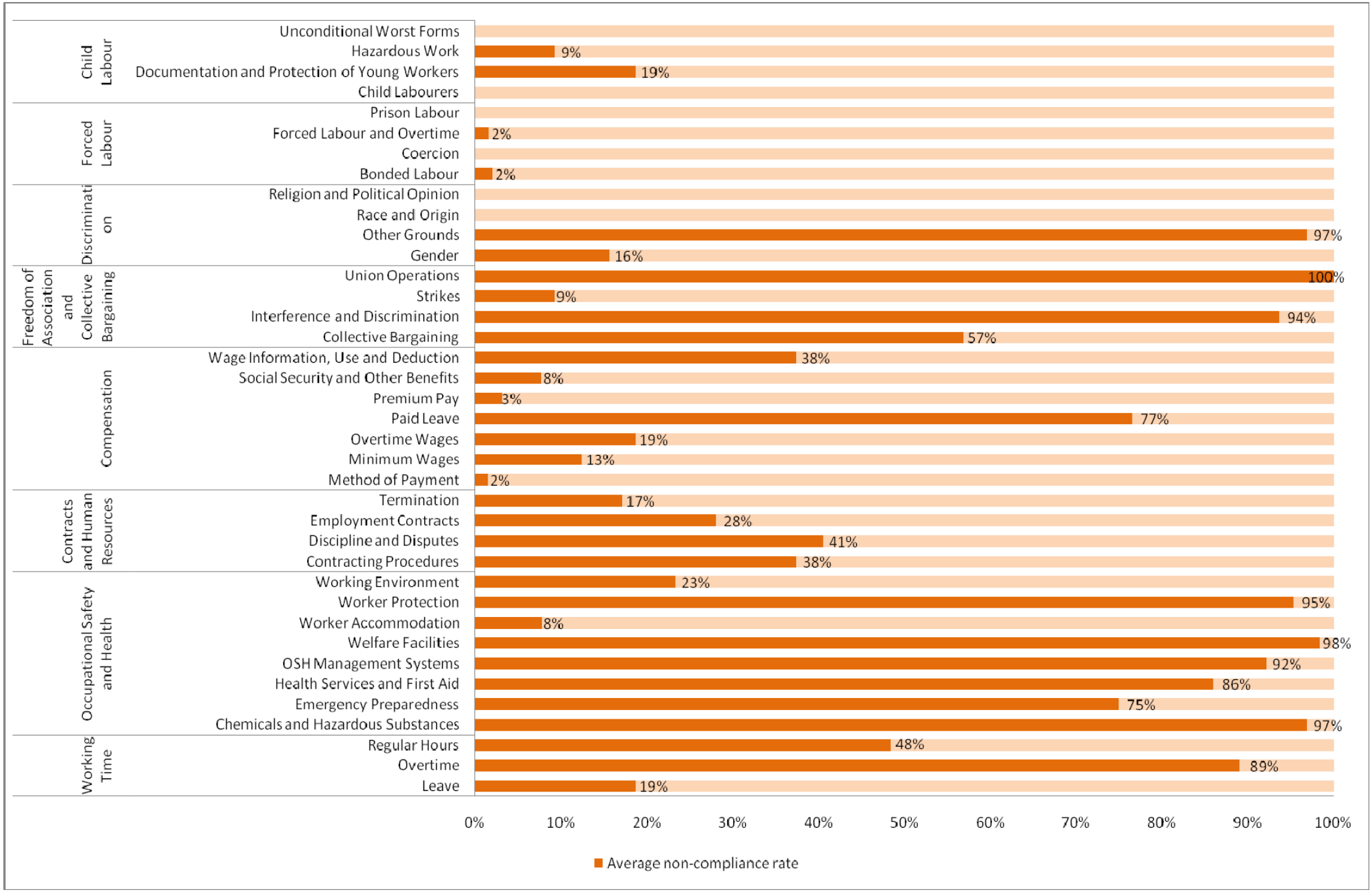
Chart 1 provides an overview of average non-compliance rates for factories covered in this report. Key findings are provided below, followed by a section with additional details.

In the areas of Core Labour Standards:

- **Child and Young Labour**: Twelve factories are non-compliant in Documentation and Protection of Young Workers and six are non-compliant with Hazardous Work for Young Labourers.
- **Forced Labour**: One factory is non-compliant in Bonded Labour section and one is non-compliant with Forced Labour and Overtime.
- **Discrimination**: Sixty two factories are in non-compliance with the Other Grounds CP, which refers mainly to legal requirements for disabled workers or contributing to the fund for people with disabilities Ten factories are in non-compliance with the gender discrimination section, in particular for discrimination against potential male applicants.
- **Freedom of Association and Collective Bargaining**: All 64 enterprises have established a trade union. However, workers can only join the one trade union that is legally accepted by Vietnamese law.; Therefore, all factories are non-compliant with international core labour standards on Union Operations because they must adhere to national law on Union Operations. Sixty factories have non-compliance findings in Interference and Discrimination, 37 are non-compliant in Collective Bargaining; and six are non-complaint in how they handle strikes.

In the areas of Working Conditions (national law):

- **Compensation**: The highest non-compliance rates for compensation are concentrated in the following areas: Paid Leave (49 factories); Wage Information, Use and Deduction (24 factories), which refers primarily to the practice of keeping multiple payroll records; and Overtime Wages (12 factories).
- **Contracts and Human Resources**: The highest non-compliance rates are related to Discipline and Disputes, primarily around proper grievance handling mechanisms (26 factories) and Contracting Procedures (24 factories).
- **Occupational Safety and Health**: Most of non-compliance is concentrated in this cluster, and in particular in Welfare Facilities, Chemicals and Hazardous Substances, Worker Protection, and OSH Management Systems.
- **Working Time**: Fifty seven factories are non-compliant on Overtime.


Child Labour
Unconditional Worst Forms
Hazardous Work
9%
Documentation and Protection of Young Workers
19%
Child Labourers
Forced Labour
Prison Labour
Forced Labour and Overtime
2%
Coercion
Bonded Labour
2%
Discrimination
Religion and Political Opinion
Race and Origin
Other Grounds
97%
Gender
16%
Freedom of Association and Collective Bargaining
Union Operations
100%
Strikes
9%
Interference and Discrimination
94%
Collective Bargaining
57%
Compensation
Wage Information, Use and Deduction
38%
Social Security and Other Benefits
8%
Premium Pay
3%
Paid Leave
77%
Overtime Wages
19%
Minimum Wages
13%
Method of Payment
2%
Contracts and Human Resources
Termination
17%
Employment Contracts
28%
Discipline and Disputes
41%
Contracting Procedures
38%
Occupational Safety and Health
Working Environment
23%
Worker Protection
95%
Worker Accommodation
8%
Welfare Facilities
98%
OSH Management Systems
92%
Health Services and First Aid
86%
Emergency Preparedness
75%
Chemicals and Hazardous Substances
97%
Working Time
Regular Hours
48%
Overtime
89%
Leave
19%
0%
10%
20%
30%
40%
50%
60%
70%
80%
90%
100%
Average non-compliance rate

Detailed Findings

This section describes the level of non-compliance across participating factories for each sub-section (Compliance Point) within each of the eight categories and, through the In Focus Tables, it presents detailed findings at the question level.

1. Core Labor Standards

a. Child Labour

There were no instances of workers under the age of 15 identified during the reporting period. All findings relate to the hiring and/or conditions of work for young workers, who are between 15 and 18 years of age.

As the area of Documentation and Protection of Young Workers emerges as an area of concern, it is explored in greater detail in the table below:

In focus: Documentation and Protection of Young Workers

Questions	*Number of factories out of compliance:*
Does the employer keep a record of workers under 18 years of age as specified in national law?	10
Does the employer have a reliable system in place to verify the age of workers prior to hiring?	12

These findings refer to factories not having a reliable age verification system in place and/or not keeping separate records of young workers at the factory. In most cases, the practice was not widespread across the factory, but instead related only to a small number of workers and in most cases, the young workers were 17 years old.

In six factories, young workers worked more than 7 hours a day or 42 hours a week (including overtime). There are also cases where young workers were performing responsibilities that included exposure to specified hazardous chemicals that should not be handled by young workers.

b. Forced Labour

There are two findings in the Forced Labor cluster. The one finding in Bonded Labor relates to an employer who does not take steps to ensure their private employment agency does not use bonded labor. This is not a finding of confirmed bonded labor but rather lack of evidence of a proper procedure for ensuring proper employment practices of the contracted employment agency. This is the same instance reported in the first public synthesis report.

There was one finding in the Forced Labour and Overtime CP related to forcing workers to work more than 4 hours overtime per day or 300 hours overtime per year by threatening dismissal or other action that would reduce their future income. In this case, workers were not asked ahead of time if they agreed to work the overtime and did not feel they could refuse to work overtime.

c. Discrimination

The reported cases of non-compliance in gender discrimination refer to recruitment materials such as job announcements or job application forms which explicitly refer to the applicant's gender. The

majority of these instances refer to discrimination against male candidates. There was one factory that discriminated in hiring based on pregnancy status.

Non-compliance to Other Grounds of discrimination refers to non-compliance to the legal requirements regarding the hiring of disabled workers or contributing to the fund for people with disabilities. This may be due to unclear requirements of the law, making it difficult for enterprises to comply.

d. Freedom of Association and Collective Bargaining

All factories assessed during this period have an enterprise-level trade union affiliated with VGCL. The VGCL is a broad socio-political organization, representing and defending the rights and interests of the working class and the laborers in Viet Nam. All workers and employees who voluntarily participate in an enterprise trade union and contribute membership fees can join the union. The union is formed based on the voluntary will of workers and workers can join it on the voluntary basis.

In addition, all factories that have signed Collective Bargaining Agreements (CBAs) comply with the legal regulation that their provisions be at least as favorable as the law.

In focus: Collective Bargaining

Questions	***Number of factories out of compliance***
Does the employer consult with unions where legally required?	32
Does the employer refuse to bargain collectively or refuse to bargain in good faith with the union or provisional union?	1
Does the employer refuse to bargain collectively with union federations and confederations?	1
Does the employer unreasonably limit the issues that can be negotiated?	1
Has the employer implemented all provisions of the collective agreement(s) in force?	2
Has the employer informed workers about the collective bargaining agreement?	13

The factories who are out of compliance with the issue of consulting with unions where legally required did not seek union input on issues such as employee dismissal, disciplinary actions, overtime planning, leave planning, or building wage scales.

In focus: Interference and Discrimination

Questions	***Number of factories out of compliance***
Are workers free to meet without management present?	58
Does the employer consider a job applicant's union membership or union activities when hiring?	1
Does the employer provide incentives to workers to keep them from joining a union or engaging in union activities?	0
Does the employer punish workers for joining a union or engaging in union activities?	0
Does the employer threaten, intimidate, or harass workers who join a union or engage in union activities?	0
Does the employer use blacklists to ensure that union members or union officials are not employed?	0
Has the employer not renewed a worker's employment contract due to the worker's union membership or activities?	0

Has the employer terminated a union official without consulting the union board or the higher-level union?	5
Has the employer terminated workers for joining a union or engaging in union activities?	0
Has the employer tried to interfere with, manipulate, or control the union(s)?	60
Has the employer tried to promote the formation of a union to compete against existing union(s)?	0

Non-compliance is concentrated in the questions concerning workers meeting without management presence, and the employer trying to interfere with, manipulate or control the union(s). These findings stem from the historical issue that most union officials at the enterprise level in Vietnam are also part of the management of the enterprise.

However, guidelines on the VGCL Statutes adopted on 6 May 2009 prohibit management staff serving on the company's board of directors to stand for office at enterprise-level trade union elections (although the trade union may accept them as honorary members without decision-making powers). Better Work Vietnam will be working on a pilot basis with the VGCL to address this issue during advisory work with selected factories over the coming year.

In focus: Union Operations

Questions	***Number of factories out of compliance***
Can the union(s) freely form and join federations and confederations of their choice?	64
Can workers freely form or join the union of their choice?	64
Do union representatives have access to the workers in the workplace?	1
Does the employer provide the trade union with the necessary facilities and time to enable it to carry out its activities?	3
Does the employer require workers to join a union?	7

According to Vietnamese law, there is only one legal trade union. As such, all enterprise are compliant with Vietnamese national labor law on the two first questions above. However, they are by default out of compliance with core international labor standards on these points.

2. Working Conditions

a. Compensation

The two largest areas of non-compliance (Paid Leave and Wage Information, Use and Deduction) are explored in further detail below:

In focus: Paid Leave

Questions	***Number of factories out of compliance***
Do workers receive maternity-related medical benefits?	5
Does the employer pay for paternity leave when required?	0
Does the employer pay full average monthly wages and maternity allowance of two month's minimum wage to entitled workers?	2
Does the employer pay women workers for 30 minutes rest per day during their periods?	47
Does the employer pay workers correctly during sick leave?	0
Does the employer pay workers correctly for legally required annual leave?	3
Does the employer pay workers correctly for personal leave?	0

Does the employer pay workers during work stoppages caused by the employer or by force majeure?	4
Does the employer pay workers for legally mandated paid public holidays?	1
Does the employer pay workers for one hour breastfeeding break per day?	2
Does the employer properly process applications for other personal leave as covered by social insurance and settle payment within 7 days?	3

As observed in the In Focus table, the non-compliance findings related to Paid Leave are mainly due to employers not paying women workers for 30 minutes rest per day during their periods.

In focus: Wage Information, Use and Deduction

Questions	***Number of factories out of compliance***
Does the employer restrict the freedom of workers to use their wages as they choose?	1
Does the employer comply with national laws regarding wage deductions?	0
Does the employer keep only one accurate payroll record?	23
Does the employer properly inform workers about wage payments and deductions?	2

Assessors identified 23 factories with inaccurate payroll and/or multiple payroll records. A much larger number of factories were identified as having multiple payroll records during the second half of the year, which may in part be reflective of the increased ability of Better Work assessors to identify cases of unreported multiple payroll records as well as increased willingness on the part of factories to share full data.

b. Contracts and Human Resources

In focus: Contracting Procedures

Questions	***Number of factories out of compliance***
Does the employer comply with limits on the period of employment for probationary workers?	18
Does the employer comply with requirements for temporary transfers of workers to new work?	7
Does the employer sign more than two consecutive fixed term contracts with workers?	6
Does the employer comply with national law concerning sub-contracted workers at the workplace?	3

As noted above, the majority of findings in this area relate to limits on the period for probationary work. Some of these cases refer to workers who are classified as helpers or cleaners being on a 30-day probationary period rather than the required maximum of 6 days. Some other factories apply a 60-day probationary period for regular workers rather than the required maximum of 30 days.

In focus: Discipline and Disputes

Questions	***Number of factories out of compliance***
Did the employer resolve grievances and disputes in compliance with legal requirements?	9
Do disciplinary measures comply with legal requirements?	8
Have any workers been bullied or harassed for any other reason?	2

Have any workers been disciplined using physical punishment or humiliating treatment?	1
Is there a Labour Conciliation Council in the factory?	17

The In Focus table shows that the non-compliance finding in Discipline and Disputes is largely due to the lack of Labour Conciliation Councils in factories. The cases of workers being bullied, harassed, or disciplined using physical punishment or humiliating treatment refer to one instance of a factory where the warehouse manager was insulting and shouting at workers and another in which factory management uses insulting words on a regular basis to scold workers who make mistakes. One of the factories was non-compliant on both of these questions.

c. Occupational Safety and Health

The three highest non-compliance areas around Occupational Health and Safety are explored in the table below:

In focus: Welfare Facilities

Questions	***Number of factories out of compliance***
Does the employer provide workers enough free safe drinking water?	0
Does the workplace have adequate accessible toilets?	6
Does the workplace have adequate hand washing facilities and adequate soap?	13
Does the workplace have other legally-required facilities?	54
Is the workplace clean and tidy?	30

The additional legally-required facilities referred to above include providing changing rooms for female workers, showers, lockers for employees' personal belonging, and other similar issues. Many factories have none of these additional legally required facilities, while others have some but not all. In both cases they will be found non-compliant which accounts for the high level of non-compliance.

The final non-compliance point above concerns basic housekeeping at the factory, including blocked aisles, slipping and tripping hazards, cluttered passageways, and other similar situations. There is a large range across factories, with some being widely out of compliance and others having only certain issues in some parts of their facilities.

In focus: Chemicals and Hazardous Substances

Questions	***Number of factories out of compliance***
Are chemicals and hazardous substances properly labelled?	45
Are chemicals and hazardous substances properly stored?	39
Does the employer keep an inventory of chemicals and hazardous substances used in the workplace?	44
Does the employer keep chemical safety records for the hazardous chemicals used in the workplace?	45
Does the employer provide adequate washing facilities and cleansing materials in the event of exposure to hazardous chemicals?	34
Has the employer effectively trained workers who work with chemicals and hazardous substances?	41
Has the employer taken action to assess, monitor, prevent and/or limit workers' exposure to chemicals and hazardous substances?	53

There is a relatively high rate of non-compliance related to chemicals and hazardous substances. These range from factories that have no chemical management systems at all, to those who have mostly good existing systems but who may not yet have obtained MSDS sheets for new chemicals. The vast majority of factories are non-compliant on assessing and limiting exposure to chemicals, even some of those with otherwise good chemical management.

In focus: Worker Protection

Questions	***Number of factories out of compliance***
Are electrical wires, switches or plugs properly installed, grounded, and maintained?	13
Are materials, tools, switches, and controls within easy reach of workers?	0
Are proper guards installed and maintained on all dangerous moving parts of machines and equipment?	43
Are standing workers properly accommodated?	27
Are there appropriate safety warnings posted in the workplace?	7
Are there sufficient measures in place to avoid heavy lifting by workers?	14
Are workers effectively trained and encouraged to use the personal protective equipment that is provided?	37
Are workers effectively trained to use machines and equipment safely?	37
Do workers have suitable chairs?	49
Does the employer force workers to continue working when they have refused to work due to clear imminent and serious danger to their life or health?	0
Does the employer provide employees with all necessary personal protective clothing and equipment?	21

As indicated in the table above, non-compliance for issues of worker protection are widespread. Many of these issues are of high priority for worker safety and are among the first issues the program addresses with factories during the advisory process.

In addition, 30 factories were found non-compliant in emergency preparedness, in particular having emergency exits inaccessible, obstructed, or locked during working hours, including overtime.
In 37 factories, workers who are exposed to work-related hazards did not receive free pre-assignment and periodical health checks every 6 months. Forty factories did not have an approved OSH feasibility study, and in 32, the employer did not perform an assessment of general occupational safety and health issues in the factory.

d. Working Time

The high non-compliance rate for Overtime is explored in further detail in the table below:

In focus: Overtime

Questions	***Number of factories out of compliance***
Does the employer comply with limits on overtime hours worked?	56
Does the employer comply with notice requirements regarding overtime?	9
Does the employer ensure that workers have on average at least 4 rest days per month when weekly rest is not possible?	31
Does the employer work overtime only for reasons allowed by law?	1
Is overtime work voluntary?	15

Almost all factories in this report do not comply with limits on legal overtime and nearly half do not provide workers with at least 4 days rest per month. Moreover, in 23% of the factories overtime is not voluntary in practice.

Issues of excessive working hours are widespread across apparel factories worldwide. As part of its advisory work, Better Work Vietnam is focused on identifying ways in which factories can make improvements to their systems in order to enhance their productivity and enable them to decrease overtime hours. In addition, Better Work staff is working with Performance Improvement Consultative Committees to explore other scheduling and shift arrangements that could help factories come into compliance on working hours.

In cases were overtime is not voluntary, the program is working on this issue with factories as a priority issue needing immediate attention.

Section III: Conclusions

Conclusions and Next Steps

Better Work Vietnam has begun advisory services in all of the factories covered in this report. The goal of the advisory work, as well as the program's stand-alone training services, are to work with factories to assist them in proactively closing the areas of non-compliance mentioned in this report.

Factories are at different points in the improvement process based on when they received the Better Work Vietnam assessment. For those factories assessed in late 2009 or early 2010, they are close to finishing their first year of advisory work. After the first year, the factory must re-register for a second year of services, at which point a new assessment will be conducted. This second assessment will show changes made at the factory during the first year. These changes will be reported in the next public synthesis report.

During the first year of advisory work, the program places a heavy emphasis on building an enterprise-level Performance Improvement Consultative Committee (PICC), comprised of an equal number of management and union representatives. Better Work Vietnam advisors lead the group through problem solving training, applying easy-to-use tools to help participants collaborate and trust one another as the basis for making change. Over time, Better Work staff gradually pass facilitation of the PICC over to the factory itself, with program staff acting as a coach and content expert in the process.

As noted in the first public report, it is already possible to see change in the attitudes of many factories who are working with the program. Some of these factories were those who may have been most skeptical of joint worker/management efforts at the onset but who have seen the impact it can have on their compliance as well as general workplace cooperation benefits.

Specific actions the program is taking in advisory work to address key non-compliance issues in this report include:

> **Freedom of Association and Collective Bargaining**: The primary focus of the program in this cluster is to improve the collective representation of workers' interests as a prerequisite for effective labor dispute settlement and meaningful collective bargaining. The separation of functions of factory management and worker representation is an important aspect of strengthening the trust of workers in trade unions and will be addressed on a pilot basis together with a parallel ILO Industrial Relations program and the VGCL .

- **Occupational Health and Safety:** As mentioned in the first synthesis report, most factory advisory work is beginning with a focus on OSH issues. This is an area that most factories prioritize and many issues can be handled in a relatively short timeframe. In particular, the program is working with factories to help them develop feasibility studies, increase training for workers on use of personal protective equipment, and address issues of chemical handling, labeling, storage, and exposure. The program held an industry forum for all participating factories on issues of chemicals and hazardous materials in August 2010.

- **Compensation**: Key focus areas in the first year of operations include working with companies to ensure their compensation system is in line with requirements regarding maternity benefits, overtime, work at night, annual leave, and break times.

- **Discrimination**: As mentioned in the first report, the focus for the program in the area of discrimination to help companies to improve recruitment procedures to prevent gender and/or pregnancy discrimination in job advertisements or during the recruitment process.

- **Working Hours:** Excessive overtime is a problem at almost all factories in Vietnam and more globally in the apparel industry. This issue is not one that can be easily solved by factories alone. Instead, the program is working with factories to ensure they are transparent regarding true hours of work. From there, the program will work with each enterprise to improve productivity and explore other methods of coming into compliance on hours. This is also an area of ongoing discussion with international buyers participating in the program.

Many of the non-compliance issues the program has identified at participating factories cannot be thoroughly tackled in a single year cycle. These issues may relate to larger systemic issues or to deep rooted attitudes or lack of technical skills at a factory. During the first year of work, the goal of the program is, through the work of the PICCs, to develop a collaborative process for making change; tackle urgent and relatively easy non-compliance issues; and start working on longer term structural problems. These more difficult issues will continue to be the focus of improvement efforts in subsequent years.

Annexes

Annex A: Factories covered in this report

All Super Enterprise
Alta Mode Vietnam
Atlantic
Avery Dennison RIS
Cao Hoa Co.
CCH Top
Chutex International
Colltex Garment
Dae Kwang -Maika Co. Ltd
Domex Vietnam
Eclat Textile
Eins Vina
Epic Designers
Esquel
Far Eastern
FTN Vietnam
Garmex Saigon
Green Vina
Hamlin Vietnam
Hansae TN
Hansae Vietnam
Hansoll Vina
Huu Nghi
Jiangsu Jing Meng Vietnam
Jung Kwang Vietnam
King Hung Garments Industrial Co.
King Star Garment
KL Texwell Vina
L&S Vina
Lotus Textile & Garment
Moland Company
Nam Yang
NB Blue
Nobland Vietnam
Nobland Vietnam 2
Ocean Sky Apparel
O-Sung Vina Co. Ltd
Panko Vina Corporation
Poong In Vina
Protrade
Quang Xuan Trading
Quoc Hai Garment
Sae Hwa Vina
Saigon 3 Garment
Saitex International Vietnam
Sarah
SB Saigon Fashion
Shillabags International Co.
Shinsung Vina
Sinwah Apparel
SS Vina
Sundia Binh Duong
T&T Co. Ltd.
Tae Young Vina
Thao Uyen
Tocontap Saigon JSC
Tri Dat Garment Co. Ltd.
Truong Vinh
Unipax
United Sweetheart
Viet Hung
Viet Thinh Garment
Viet Tien
Vigawell Co. Ltd

Annex B: Buyers participating in Better Work Vietnam (this reporting period)

During the first year of operations, many buyers began to encourage or require the factories in Vietnam to join the Better Work Vietnam program. The following buyers formally registered for the program and received reports during the reporting period:

Aber Crombie & Fitch

adidas Sourcing Limited

American Eagle Outfitters

Ann Taylor

Brooks Sports

Burberry

Columbia Sportswear Company

G- Star International

Gap Inc.

H&M

Levi's

Liz Claiborne International Ltd.

LLBean

New Balance

Nike Inc.

Nordstrom

Pentland

SBS Tekstil San. Ve Tic. AS.

Sears Holdings

Target

Teijin

The Jones Group

The Walt Disney Company

Walmart

World Cat Vietnam