

# **Better Work Vietnam: Garment Industry**

## **3<sup>rd</sup> 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 and its second synthesis report in February 2011. This third public synthesis report includes all factories assessed by the program between July 2010 and July 2011, which covers a total of 78 factories. Twelve of these factories have been assessed twice by Better Work Vietnam. Section III includes information pertaining to these twelve factories, showing the changes in compliance observed between the first and the second assessment visit.

Assessment results show the following:

- The baseline established by the first two public synthesis reports is reinforced by the data in this report, showing comparable findings of non-compliance in the same areas during factories' first assessment visits.
- The most common areas of non-compliance across factories in areas of national labor law continue to be in occupational health and safety, overtime hours, paid leave, and failure to hire adequate numbers of people with disabilities.
- In Core Labor Standards, non-compliance findings relate primarily to differences between Vietnamese national law and international conventions in the area of freedom of association and collective bargaining.

For the factories who have undergone two assessments, key findings include:

- All factories are actively participating in the Better Work Vietnam advisory process, having set up a management/union Performance Improvement Consultative Committee to improve workplace cooperation and address issues of non-compliance.
- All factories have shown significant improvements in core labor standards. All factories have shown significant improvements across occupational health and safety, including worker protection, emergency preparedness, OSH management systems, and welfare facilities.
- Issues of compensation and overtime have remained relatively constant, with there being a clear need for ongoing efforts in these areas.

# Section I: Introduction and Methodology

## Introduction

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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 first five years of operation, 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 produces two public synthesis reports per year aggregating information on the performance of all participating factories in the reporting period. This third synthesis report provides an overview of the working conditions of 78 factories over the period July 2010 – July 2011. Thirty-two of these factories were included in the second synthesis report published in February 2011. Twelve of these factories have received a second assessment visit. Their compliance effort, i.e. the change in non-compliance rates from the first to the second assessment visit, is presented at the aggregate level in Section III.

The factories included in this report employ a total of 121,140 workers, of which more than 71% are women workers. In average, each factory employs 1,400 workers.

## **Institutional Context**

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The Government and social partners in Vietnam are continuing efforts to strengthen the country's legal and policy framework, with a focus on collective bargaining, minimum wages, labor dispute settlements, unemployment insurance and the gender pay gap, among others. In recent years, the government has also invested significantly in examining its industrial relations system and in understanding more fully the labor clauses in relevant free trade agreements.

The latest draft revisions of the labor code and trade union law have incorporated most of the ILO official comments to make them more compliant with international standards and practices. The ILO guidance has consisted of a number of workshops to discuss outstanding issues and delve into specific thematic issues. The two draft laws are currently scheduled to be appraised by the National Assembly in November 2011 and adopted in the next session in May 2012.

In addition, The Ministry of Labor, Invalids, and Social Affairs (MoLISA) recently approved a Roadmap for ratifications of ILO Conventions, in which it plans to review two core Conventions (no. 87 and no. 98) on freedom of associations and collective bargaining. Vietnamese constituents have sought ILO technical guidance on how Vietnam should consider these Conventions and Recommendations.

Vietnam is aware of the challenges associated with how it should comply with the requirements of the ratified Conventions and its international obligations under those treaties. A key mechanism to address the challenge is the active contribution and participation from all the tripartite actors and other stakeholders.

The legal reform process is also closely associated with concern by all social partners over industrial disputes in the garment sector in Vietnam. During the first 7 months of 2011, official figures report roughly 720 wildcat strikes in the whole country.

There are a range of capacity building projects underway, led both by Better Work Vietnam and by other programs and partners, to help employers and employees build mechanisms and practices of communication and consultation at the enterprise level. These efforts are explicitly focused on strengthening workplace cooperation and grievance handling mechanisms to create constructive alternatives for unions and management to effectively negotiate. Building social dialogue is one of the key objectives of Better Work more generally and the program is currently working on developing more explicit guidance on how it can work with participating enterprises that have experienced a strike.

## **Better Work Methodology**

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Better Work carries out factory assessments to monitor compliance with international core labour standards and national labour law. Following an assessment, a detailed report is shared with the factory. An aggregated industry-level report is issued twice a year. Following an initial baseline report all factories that have received at least two compliance assessment visits will be named in the industry-level reports. In its factory and industry-level reports, Better Work highlights *non-compliance* findings. It reports these figures to help factories easily identify areas in need of improvement. Collecting and reporting these data over time will help factories demonstrate their commitment to improving working conditions.

Better Work organizes reporting into eight areas, or clusters, of labour standards. Four of the clusters are based on fundamental rights at work and four are based on national labour law relating to working conditions.

**Core labour standards:** Adopted in 1998, the ILO Declaration on Fundamental Principles and Rights at Work commits Member States to respect and promote principles and rights in four categories, whether or not they have ratified the relevant Conventions. These categories are: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation. The relevant ILO Conventions from which the 1998 Declaration derives—29, 87, 98, 105, 100, 111, 138, and 182—provide the framework for assessing non-compliance in the core labour standards clusters across all Better Work country programmes.

Vietnam has ratified 18 Conventions (17 in force), including five core Conventions (C.29, C.100, C.111, C.138 and C. 182). It has recently ratified a Governance Convention, C.144 on tripartite consultations. Three other Conventions (C.122 on employment policy, C.184 on OSH in agriculture and C.159 on vocational rehabilitation and employment (disabled persons)) have been reviewed for possible ratifications in a near future.

**National labour law:** The four other clusters monitor compliance with standards set by national law, so they vary from country to country. This set consists of compensation, contracts and human resources, occupational safety and health, and working time.

Each of the eight clusters is divided into its key components, known as “compliance points”. Each of these compliance points contains specific questions that may vary from country to country. The detailed list of compliance points appears in the table below.

	Compliance Clusters	Compliance Points
Core Labour Standards	1 Child Labour	1. Child Labourers 2. Unconditional 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

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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 average non-compliance rates for all participating factories in each of these same sub-categories. For example, an average 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 issues that enterprise advisors have observed during their assessment. 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, highlighting the number of factories found to be non-compliant to each specific question.

## Note on the factories represented in this report

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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 rates presented in the synthesis report refer to participating industry averages. As factories are assessed in average once per year, in some cases the data included in the synthesis reports is older than 6 months.

This third synthesis report provides an overview of the working conditions of 78 factories over the period July 2010 – July 2011. Thirty-two of these factories were included in the second synthesis report published in February 2011.

Twelve of these factories have been assessed twice by Better Work Vietnam. Section III includes information pertaining only to these twelve factories, showing the changes in compliance observed between the first and the second assessment visit.

## Limitations in the Assessment Process

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

The limitations to the assessment process are the same as those reported in previous public synthesis reports. Those issues are again mentioned below.

Over the period covered in this report, the program again 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 and c) factories that have been in the programme for more than a year and have greater trust and confidence in it may be willing to be more open with assessors in the second year

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.

## Section II: Findings

### Average Non-Compliance Rates

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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.

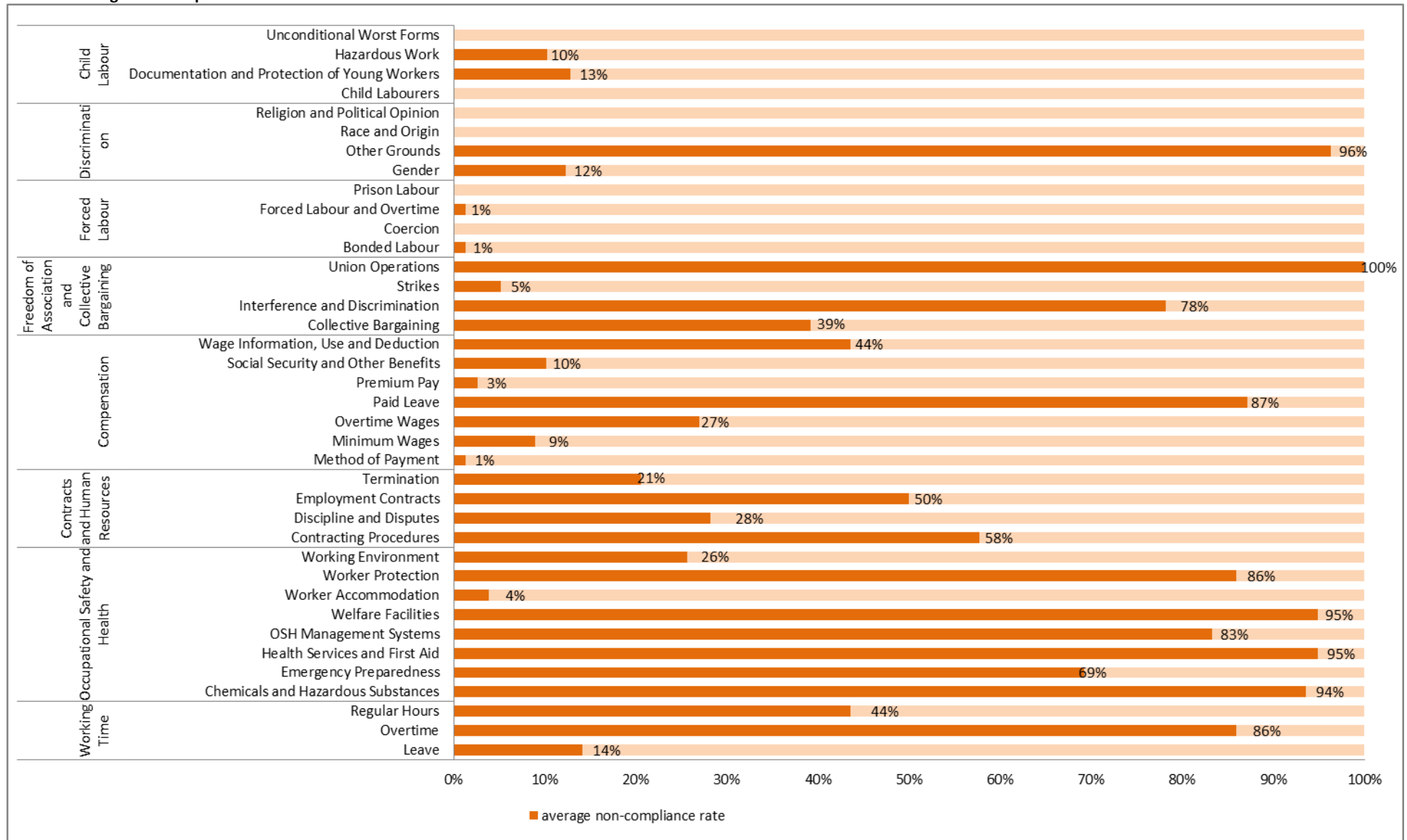
#### In the areas of Core Labour Standards:

- **Child Labour:** Ten factories are non-compliant in Documentation and Protection of Young Workers and eight are non-compliant with Hazardous Work for workers under the age of 18. The program did not find any case of workers under the age of 15.
- **Discrimination:** Seventy-five 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. However, there are currently no clear guidelines for factories to pay into the fund and in many cases there are not enough disabled workers willing to join the factory as an alternative. Nine factories are in non-compliance with the gender discrimination section, in particular for discrimination against potential male applicants.
- **Forced Labour:** One of these findings, related to workers' ability to refuse overtime, has been already presented in the 2<sup>nd</sup> synthesis report. In another occasion, one factory is non-compliant in the Bonded Labour section for failing to create a process to ensure their contractor takes steps to avoid bonded labor.
- **Freedom of Association and Collective Bargaining:** All 78 enterprises have established a trade union. However, workers can only join the one trade union that is legally accepted by Vietnamese law. Therefore, all 78 factories can not comply with international core labour standards on Union Operations because they must adhere to national law on Union Operations. Sixty-one factories have non-compliance findings in Interference and Discrimination and 31 are non-compliant in Collective Bargaining.

#### In the areas of Working Conditions (national law):

- **Compensation:** The highest non-compliance rates for compensation are concentrated in Paid Leave (68 factories). Thirty-four factories are non-compliant in Wage Information, Use and Deduction, which refers primarily to the practice of keeping multiple payroll records.
- **Contracts and Human Resources:** The highest non-compliance rates are related to Contracting Procedures (45 factories).
- **Occupational Safety and Health:** Most of non-compliance is concentrated in this cluster, and in particular in Welfare Facilities, Health Services and First Aid, and Chemicals and Hazardous Substances.
- **Working Time:** Sixty-seven factories are non-compliant on Overtime.

Chart 1: Average non-compliance rates



## Detailed Findings

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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 Labour Standards

#### 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.

There is an average of 13% non-compliance rate for Documentation and Protection of Young Workers. This point is explored in further detail below:

#### *In focus: Documentation and Protection of Young Workers*

<i>Questions</i>	<i>Number of factories out of compliance:</i>
<b>Does the employer have a reliable system in place to verify the age of workers prior to hiring?</b>	10
<b>Does the employer keep a record of workers under 18 years of age?</b>	9

In addition, the Child Labour Hazardous Work section has a 10% average non-compliance rate. In one factory, workers who were 17 years old were working in the dying section, which requires daily exposure to chemicals. There were also 17-year-old workers at this factory working excessive overtime. In three additional factories, it was observed that workers under the age of 18 worked at night and in eight factories, workers under age 18 worked more than 7 hours a day.

#### Discrimination

The two primary areas of non-compliance in discrimination relate to gender and discrimination on “other grounds.”

The average non-compliance rate in the the Gender section is 12%. This is mainly explained by job announcements referring to the applicant’s gender, with factories noting that they are looking for female candidates only.

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. Seventy-six out of 78 factories are in non-compliance in this area. Better Work Vietnam is currently working with the Ministry of Labor, Invalids, and Social Affairs (MoLISA) on this issue as there are no clear guidelines for factories regarding how to pay into the fund and in many cases, there are not enough disabled workers to join the factory and meet the minimum hiring requirements. At the same time, the program is working on training activities with factories on how to increase employment of people with disabilities.

#### Forced Labour

One finding in the Forced Labour cluster was already reported in the second synthesis report published in February 2011. There was one observation of non-compliance 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.

Furthermore, there is one finding in Bonded Labor, which relates to an employer who did 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.

**Freedom of Association and Collective Bargaining**

All factories assessed during this period have an enterprise-level trade union affiliated with VGCL. VGCL is a major socio-political organization, representing working class, intellectuals and workers in Vietnam. All workers and employees who act voluntarily in an enterprise trade union and contribute regulated union fees can join the union. The union is formed based on the voluntary will of workers and is the only legal representative of the working class in Vietnam

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***

<b>Questions</b>	<b>Number of factories out of compliance</b>
Does the employer consult with unions where legally required?	21
Does the employer refuse to bargain collectively or refuse to bargain in good faith with the union or provisional union?	0
Does the employer refuse to bargain collectively with union federations and confederations?	0
Does the employer unreasonably limit the issues that can be negotiated?	0
Has the employer implemented all provisions of the collective agreement(s) in force?	2
Has the employer informed workers about the collective bargaining agreement?	17

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 addition, 17 factories did not take measures to ensure workers are adequately informed about the provisions of the the Collective Bargaining Agreement.

In the Interference and Discrimination section, the average non-compliance rate is 78%. Non-compliance is concentrated in the questions concerning workers meeting without management presence (58 out of 78 factories), and the employer trying to interfere with, manipulate or control the union (45 out of 78 factories). 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 is working with factories to address this issue and preliminary results can be seen in Section III below.

The non-compliance rate for the Strikes section is 5%. In three factories, the employer has not reinstated all eligible workers after a strike. In one factory, the employer punished workers for participating in a strike.

Factories were non-compliant with the Union Operation questions as follows:

***In Focus: Union Operations***

<b>Question</b>	<b><i>Number of factories out of compliance</i></b>
<b>Can the union(s) freely form and join federations and confederations of their choice?</b>	78
<b>Can workers freely form or join the union of their choice?</b>	78
<b>Do union representatives have access to the workers in the workplace?</b>	1
<b>Does the employer contribute 2% (in case of a domestic enterprise) or 1% (in case of a foreign-invested company) of all factory employees payroll to the union fund?</b>	1
<b>Does the employer provide the trade union with the necessary facilities and time to enable it to carry out its activities?</b>	3
<b>Does the employer require workers to join a union?</b>	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. Therefore, they are by default can not comply with core international labor standards on these points.

**2. Working Conditions**

**Compensation**

The two highest areas of non-compliance in this cluster are Paid Leave and Wage Information, Use and Deduction. These are explained in the two In Focus tables below.

***In Focus: Paid Leave***

<b>Question</b>	<b><i>Number of factories out of compliance</i></b>
<b>Does the employer pay workers for legally mandated paid public holidays?</b>	1
<b>Does the employer pay workers correctly for legally required annual leave?</b>	2
<b>Does the employer pay workers correctly for personal leave?</b>	0
<b>Does the employer correctly pay workers during sick leave?</b>	1
<b>Does the employer pay workers during work stoppages caused by the employer or by <i>force majeure</i>?</b>	3
<b>Does the employer pay full average monthly wages and maternity allowance of two month's minimum wage to entitled workers?</b>	3
<b>Do workers receive maternity-related medical benefits?</b>	5

Does the employer pay workers for one hour breastfeeding break per day?	3
Does the employer pay women workers for 30 minutes rest per day during their periods?	46
Does the employer pay for paternity leave when required?	0
Does the employer properly process applications for other personal leave as covered by social insurance' and settle payment within 3 working days?	42

The non-compliance is concentrated on the payment for the 30 minutes rest per day for women workers during their periods, and the proper process application and payment for other personal leave. In most cases, the non-compliance on proper processing for personal leave and settlement of payment is because factories process payments at the end of every month rather than within 3 working days.

### ***In Focus: Wage Information, Use and Deduction***

<b><i>Question</i></b>	<b><i>Number of factories out of compliance</i></b>
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?	1
Does the employer keep only one accurate payroll record?	31
Does the employer properly inform workers about wage payments and deductions?	3

The non-compliance in this section is concentrated on the presence of multiple payroll records. The issue of lack of transparency is a key priority for Better Work Vietnam

The average non-compliance rates for Minimum Wages and Overtime Wages are 9% and 27% respectively. Four factories did not pay at least the applicable legal minimum wage for ordinary hours of work to regular full time workers, and three factories did not pay at least 7% higher than the applicable legal minimum wage for ordinary hours of work to workers who have received vocational training. Concerning Overtime Wages, nine factories did not pay correctly for all ordinary overtime hours, and eight factories did not pay correctly overtime hours worked at night.

## **Contracts and Human Resources**

The highest non-compliance rates in this cluster are in Contracting Procedures and Employment Contracts.

### ***In Focus: Contracting Procedures***

<b><i>Question</i></b>	<b><i>Number of factories out of compliance</i></b>
Does the employer comply with limits on the period of employment for probationary workers?	39
Does the employer comply with national law concerning sub-contracted workers at the workplace?	4
Does the employer comply with requirements for temporary transfers of workers to new work?	8
Does the employer sign more than two consecutive fixed term contracts with workers?	6

Thirty-nine out of 78 factories did not comply with the limits on the period of employment for probationary workers. As noted in the last synthesis report, many 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: Employment Contracts***

<b><i>Question</i></b>	<b><i>Number of factories out of compliance</i></b>
<b>Do all persons who perform work for the factory, both on the premises and offsite, have a contract?</b>	15
<b>Do the contracts comply with the labour law, collective agreement and work rules?</b>	24
<b>Do the employment contracts specify the terms and conditions of employment?</b>	4
<b>Do the internal work rules comply with national law?</b>	5
<b>Do workers understand the terms and conditions of employment?</b>	4

The 24 factories out of compliance on contracts are factories that as well as using the wrong probationary periods (as reflected by the 39 factories out of compliance on probationary periods in the point above), also explicitly state these probationary periods in the contracts. The explicit statement of incorrect probationary periods in the contracts makes them out of compliance with the law on this point as well.

The other area of non-compliance in this section relates to Discipline and Disputes, which has a 28% non-compliance rate. This can largely be explained by the absence of Labour Conciliation Council in 14 factories.

## **Occupational Safety and Health**

Three areas report high non-compliance rates in the cluster of Occupational Safety and Health. They are further analysed in the In Focus tables below.

#### ***In Focus: Welfare Facilities***

<b><i>Question</i></b>	<b><i>Number of factories out of compliance</i></b>
<b>Does the employer provide workers enough free safe drinking water?</b>	1
<b>Does the workplace have adequate accessible toilets?</b>	5
<b>Does the workplace have adequate hand washing facilities?</b>	8
<b>Does the workplace have other legally-required facilities?</b>	68
<b>Is the workplace clean and tidy?</b>	25

The non-compliance findings are concentrated on other legally required facilities. As stated in the last public report, the facilities referred to above include providing changing rooms for female workers, showers, lockers for employees' personal belonging, and other similar types of facilities. 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.

### ***In Focus: Health Services and First Aid***

<b><i>Question</i></b>	<b><i>Number of factories out of compliance</i></b>
<b>Do workers who are exposed to work-related hazards receive free pre-assignment and periodical health checks every 6 months?</b>	65
<b>Does the employer adequately protect pregnant or nursing workers against safety and health risks?</b>	5
<b>Does the employer comply with the law on HIV/AIDS Prevention and Control or collective bargaining agreements on HIV/AIDS?</b>	37
<b>Does the workplace have sufficient onsite medical facilities and staff?</b>	17
<b>Do workers who are not exposed to work-related hazards receive pre-assignment and annual medical checks?</b>	46
<b>Has the employer ensured that there are a sufficient number of readily accessible first aid boxes/supplies in the workplace?</b>	16
<b>Has the employer provided first-aid training for workers?</b>	35

The non-compliance in Health Services and First Aid is widespread in terms workers not receiving free pre-assignment and periodical health checks. In many of these cases, the non-compliance stems from conflicting legal understandings. For the first question above, there is lack of clarity regarding the regularity with which garment workers must receive a periodic health check (annual or every 6 months). For the question above that shows 46 factories out of compliance, there is conflicting understanding by factories regarding whether a factory must conduct an additional pre-assignment health check for workers if they already have a pre-existing government health check certificate. On both of these questions, Better Work Vietnam has received government guidance that is different from other legal understandings that some factories may have received and therefore there are high non compliance rates.

### ***In Focus: Chemicals and Hazardous Substances***

<b><i>Question</i></b>	<b><i>Number of factories out of compliance</i></b>
<b>Are chemicals and hazardous substances properly labeled?</b>	46
<b>Are chemicals and hazardous substances properly stored?</b>	34
<b>Does the employer keep an inventory of chemicals and hazardous substances used in the workplace?</b>	38
<b>Does the employer keep chemical safety records for the hazardous chemicals used in the workplace?</b>	44
<b>Does the employer provide adequate washing facilities and cleansing materials in the event of exposure to hazardous chemicals?</b>	37
<b>Has the employer effectively trained workers who work with chemicals and hazardous substances?</b>	41
<b>Has the employer taken action to assess, monitor, prevent and/or limit workers' exposure to chemicals and hazardous substances?</b>	65

As noted in previous reports, there is widespread non-compliance on issues related to Chemicals and Hazardous Substances. The highest area of non-compliance is due to employers not taking action to assess, monitor, prevent and/or limit workers' exposure to chemicals and hazardous substances. However, nearly half of the factories have problems in each question in this section. This is one of the first issues that Better Work Vietnam addresses during advisory work with factories.

## Working Time

### *In Focus: Overtime*

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer work overtime only for reasons allowed by law?	0
Does the employer comply with limits on overtime hours worked?	66
Does the employer comply with notice requirements regarding overtime?	5
Does the employer ensure that workers have on average at least 4 rest days per month when weekly rest is not possible?	41
Is overtime work voluntary?	17

The vast majority of factories (66 out of 78) did not comply with limits on overtime hours worked. All of these factories exceeded the national legal limit of 300 overtime hours per year. In some cases, factories also exceeded daily overtime limits. In addition, 41 factories did not ensure that workers have on average at least 4 rest days per month.

Within the Regular Hours section, working time records did not accurately reflect the number of hours actually worked in 31 factories.

## Section III: Changes in Compliance

### Methodology

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This section of the synthesis report concerns only the **twelve factories** that have been assessed twice by Better Work Vietnam.

Chart 2 shows the changes in non-compliance that have occurred in the twelve factories between the first and second Better Work Vietnam assessments. Better Work defines compliance effort as the difference in non-compliance between two consecutive Better Work assessments.

As such, positive percentages indicate improved performance and negative percentages indicate a decline in performance. **However, when reading the data it is important to note that there are a number of important areas where a change in Better Work Vietnam methodology or legal guidance from MoLISA led to a change in findings.** These areas should not be interpreted as a change in factory performance.

It is remarkable to notice that key improvements have taken place in all areas related to core labour standards.

The changes in factories can largely be attributed to the ongoing advisory work that Better Work Vietnam conducts in all participating factories. All of the factories who have been assessed two times and are included in this report share a number of important characteristics:

- With coaching from Better Work, each of the factories has set up a Performance Improvement Consultative Committee (PICC), which is a labor/management committee at the enterprise level tasked with addressing issues of non-compliance found by Better Work.
- Each committee has an equal number of worker and management representatives, with active participation from both sides.
- Each of the PICCs meets at least on a monthly basis, ensuring ongoing efforts and fostering open communication between workers and management.
- Each of the factories has taken the opportunity of setting up a PICC as a way to help foster greater social dialogue in the factory.
- Ten of the 12 factories have also participated in Better Work Vietnam trainings, including supervisory skills, occupational health and safety, workplace cooperation, negotiation skills, and worker trainings. Most have also attended regular Better Work industry seminars on topics such as chemical management and workplace cooperation.

Each cluster is explored in detail below:

#### Child Labour

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There is a 25% improvement in Documentation and Protection of Young Workers, and an 8% improvement in Hazardous Work. These changes can largely be explained by factories putting into place more robust recruitment and age verification controls and ensuring training for staff on proper implementation procedures.

No factory that has been visited twice has child labour findings in the second assessment report.

## Discrimination

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There was a 25% improvement in the area of gender discrimination, which relates primarily to factories changing their recruitment policies and postings so as to not limit applicants to female candidates only. As can be seen in the section on discrimination above, Better Work Vietnam finds during first assessments that many factories only allow females to apply for certain positions. Program advisors work with factories to alter their recruitment materials during our advisory work.

The 8% compliance effort in Other Grounds of discrimination is due to efforts that two factories have made on the issue of hiring people with disabilities.

## Forced Labour

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There is no change because none of the factories visited twice had any forced labour finding.

## Freedom of Association and Collective Bargaining

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Compliance effort in Interference and Discrimination stands at 50%, signaling that half of the factories that have been assessed twice no longer have non-compliance findings in this area. Some factories have made real efforts in this area. **However, it is also important to note that in April 2011, the program made a change in the way it defines non-compliance on this point, leading to fewer findings of non-compliance in assessment reports.** According to prior methodology, all factories who had management in the union were found to be non-compliant in interference. However, new guidance from the ILO notes that the mere fact that supervisors or managers are union members is not by itself sufficient to indicate interference. If workers freely chose to include the supervisors or managers as members, if workers can freely express their interests, and if they affirm that the union genuinely advocates on their behalf, the membership of supervisors or managers in the union would not indicate interference.

Improving compliance in this area has been a big focus of the program during advisory visits. Many companies have started to develop mechanisms for the union to operate more independently from the management. For instance, some have made changes to allow the union to meet without the presence of management or to spend union funds without consultation with the management. These changes can be largely attributed to Better Work Vietnam's efforts to work with both management and the union in the PICCs to explain the benefits to both of greater independence from one another.

Many of these factories also instituted policies for working with the enterprise Trade Union to increase communication with workers on issues related to non-compliance. For instance, some factories posted notice boards with information regarding issues being discussed by the PICC and asking for worker feedback.

Factories also made significant improvements in terms of consulting with the union on areas required by law, including on issues related to discipline and disputes, salary scales, and annual leave. Other factories addressed problems related to failure to properly negotiate with the union on creating or updating collective bargaining agreements. Several also set up functioning Labor Conciliation Councils.

## Occupational Health and Safety

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The data also shows widespread improvements in the area of Occupational Safety and Health, in particular on Emergency Preparedness and Worker Protection, both with a 33% improvement, and on OSH Management Systems and Welfare Facilities, each with a 25% improvement.

OSH is often the first area that Better Work Vietnam addresses with participating factories, as OSH issues may present immediate health or safety hazards and in many cases, there are tangible changes the factory can implement within the short to medium term. In addition, the program has hosted several forums for all Better Work Vietnam participating factories on specific OSH issues, such as chemical and hazardous materials labeling and storage, conducting an OSH risk assessment, and creating and implementing OSH management systems. Four factories also participated in the program's full 2-day OSH training course.

Specific actions factories have implemented during the course of the year include:

- All 12 factories have updated and improved their management of chemicals and hazardous materials, including making changes in chemical inventory procedures, improving chemical labeling, renovating chemical storage facilities, posting MSDS, providing PPEs to workers and ensuring they have proper training in PPE usage, and implementing systems to record and limit workers' exposure to chemicals.
- All 12 factories have developed evacuation plans, ensured emergency exits are unlocked, provided enough fire exits for every section, developed or revised evacuation plans, and held regularly scheduled fire drills.
- Several factories made upgrades to their safety equipment and/or repaired or replaced faulty machine guards
- Several factories set up record systems to track work-related accidents
- Some factories improved the ventilation in their facilities to decrease the temperature
- A number of factories provided additional first aid boxes and first aid training to workers
- Several factories increased the frequency of worker health checks to every six months
- A number of factories provided legally required lockers, mats, and/or changing rooms for females

**At the same time, the data shows a 25% decrease in performance in the area of health services and first aid. This is largely due to a change in guidance from MoLISA. During the first round of assessments, BWV found factories to be in compliance if they trained a team of staff on first aid. However, with new guidance from MoLISA, the program changed its approach to now require factories to train all of their workers on first aid to be in compliance on this question. In addition, the program changed its approach on finding compliance with laws on HIV prevention, now requiring more formal and regular communication with workers on HIV in order to be compliant on this issue.**

## Compensation

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In the area of compensation, there was a 25% decline in performance in the area of wage information, use and deduction. This is a result of the fact that assessors identified multiple payroll records during their second year assessment in 4 factories where they were not found during the first year. While this may be a result of new multiple payroll records, it is more likely due to the improved ability of BWV staff to identify multiple payroll records and/or increased willingness on the part of factories to be transparent with the program.

The data shows an 8% improvement in performance in the area of social security and other benefits. This is in large part due to changes in factory policy to pay female workers for a 30-minute break

during their time of menstruation. In addition, there was improved compliance in terms of factories forwarding workers' social insurance funds to the social insurance agency.

Each of the other areas showed a slight decline in performance. In the area of minimum wages, assessors found one factory that was not ensuring minimum pay for all piece rate workers during shorter months of the year and in overtime wages, one factory was not ensuring 150% pay for all overtime hours. The paid leave findings relate to issues of workers not receiving full pay for all legally mandated holidays.

### **Contract and Human Resources**

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The biggest positive change in this category was in the area of discipline and disputes. Better Work Vietnam helped factories to create proper policies, including consultation with the Trade Union, before any employee dismissal. In addition, more effective grievance procedures have been put into place that reduce the incidence of disputes.

**The two areas that appear to show a decline in this area relate to contracting procedures and employment contracts. However, the change does not reflect a worsening of company practice, but rather a change in legal advice by MoLISA regarding which workers should be considered helpers with a maximum probationary period of 6 days. During the course of the past year, the program changed its approach to this issue by widening the category for helpers, therefore finding many more factories out of compliance on this issue than in their previous reports. That issue alone accounts almost entirely for what appears to be a 50% decline.**

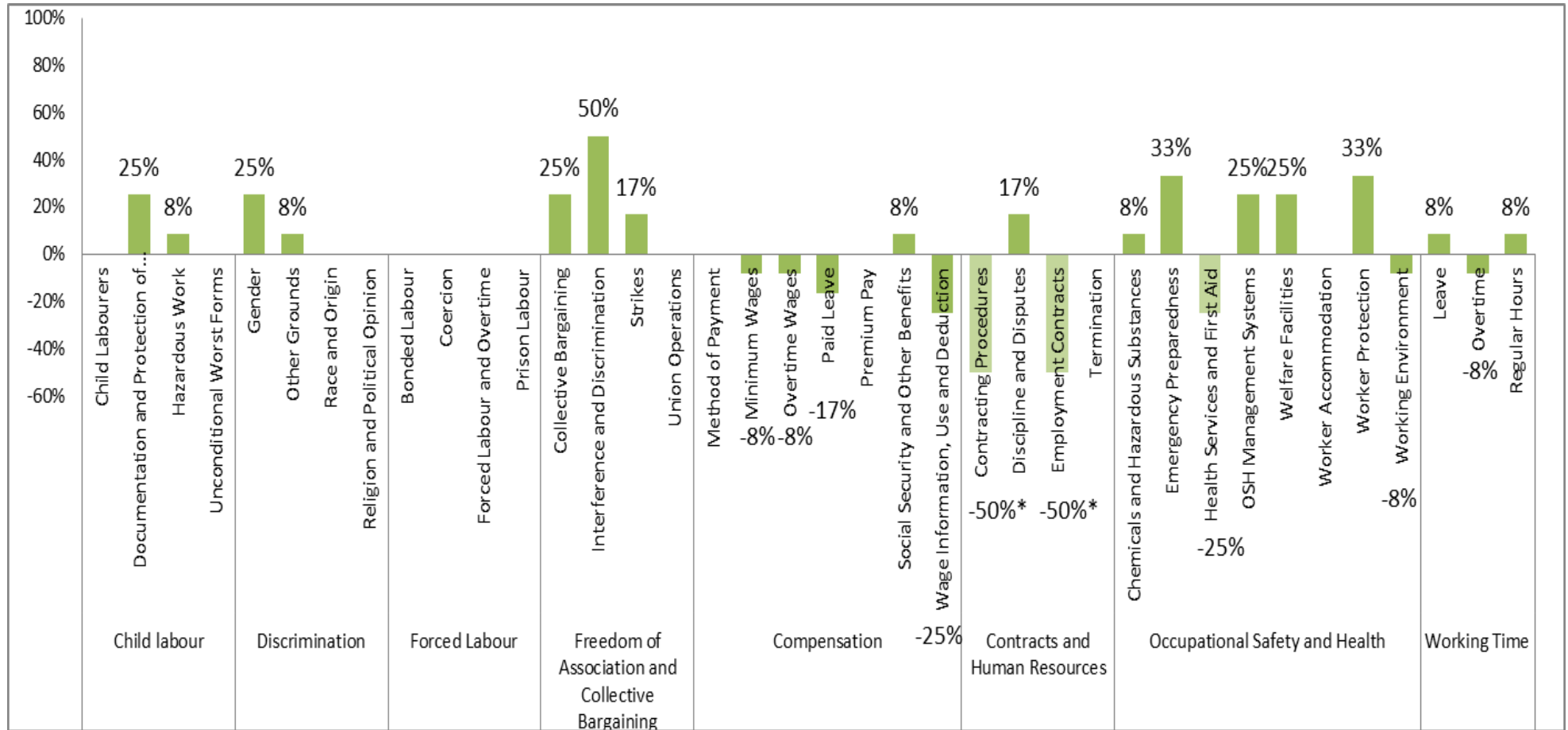
### **Working Time**

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In the area of working time, companies showed improvement in leave and regular hours, but a decline on the issue of maximum overtime hours. The improvements are due to changes in companies' policies such as adapting their leave policies to shorten the amount of advance notice a worker needs to provide before taking leave, re-arranging shifts so workers have proper rest days, and allowing female workers 30 minutes rest during menstruation.

On the issue of overtime, Better Work Vietnam advisors have been working with nearly all participating factories to help develop strategies for reducing overtime, including addressing productivity issues, looking at alternate or additional shifts, and providing input on forecasting and capacity issues. However, this issue is complex and systematic in nature, making it difficult to expect visible changes in a one-year period. In addition, although the data shows a decline in this area, that may also in part be reflective of enhanced skills on the part of Better Work Vietnam advisors to identify excessive overtime.

Chart 2: Compliance effort



\*The negative changes in non-compliance on Contracting Procedures, Employment Contracts and Health Services and First Aid are due to a change in the assessment policy by Better Work Vietnam as described above. Some of the positive change in Interference and Discrimination is also a result of adaptations to assessment policies.

## Section IV: Conclusions

### Conclusions and Next Steps

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This third public report presents an ongoing baseline assessment of factory compliance with national and international standards on working conditions. The findings parallel those in the first two public synthesis reports, further strengthening our understanding of the key issues that apparel factories in the Better Work Vietnam scope are facing.

At the same time, this report is the first time that the program has provided data showing change in factory performance over time. While the sub-set of factories who have been assessed two times is small – 12 factories through mid-July 2011 – the findings indicate key trends that are likely to be representative of the larger group of Better Work Vietnam factories.

Of particular note is the fact that all factories showed an improvement in performance across core labor standards and in the area of occupational health and safety. These changes can be largely attributed to Better Work advisory efforts. In particular, Better Work advisors start their one-year process with factories by ensuring managers and union representatives have a thorough understanding of legal requirements. Increased legal education in itself can lead to an improvement across many areas of non-compliance. In areas where there are technical gaps, program staff offer targeted inputs on how to take a systematic approach to changing factory behaviors, tackling the most urgent issues at the onset.

Finally, advisors focus their efforts during the first year of advisory services on developing effective social dialogue in the factories in which they work. All improvement processes are run collectively by management and union representatives through the Performance Improvement Consultative Committees (PICCs). This process leads to more sustainable workplace cooperation, helps to decrease conflict, and ensures a more collaborative approach to solving issues at the factory level.

However, while the changes in this report are significant, it is important to be conservative in analyzing their meaning. For instance, as reported in several places, there have been changes in legal guidance that have impacted compliance findings over the course of the past year. In addition, assessments are not an exact science and findings may be influenced by an individual assessor's capacity or training, the willingness of factory staff to be transparent, or the messages that buyers may be relaying to factories. It is critical that the data be analyzed with that caveat in mind.

As Better Work Vietnam moves forward, the program will be working both to deepen its engagement with current factories and to expand the number of factories with which it works. In addition to service delivery to individual factories, the program is also building events that foster a community of learning among factory managers and union representatives. These events help factories to learn from one another and together to increase the overall competitiveness of the Vietnamese apparel industry.

# Annexes

## Annex A: Factories covered in this report

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3Q Vina Co. Ltd.	Viet Thinh Garment
Shinsung Vina	Thao Uyen
NB Blue	Epic Designers
Hansae Vietnam	Deuck Woo
Hansae TN	Nam Yang Song May
L&S Vina	Chin Phong
Sae Hwa Vina	SH Vina
Hansoll Vina	Hong Jae Industria
Chutex International	Hansoll- Dae Kwangl
Nobland Vietnam 2	SH Corporation
Nobland Vietnam	Yupoong Vietnam
Sarah	Delta Starmark Garment
Jiangsu Jing Meng Vietnam	Tai Viet
Jung Kwang Vietnam	Dong- A Vina
Moland Company	Branch of Poong In
Quoc Hai Garment	Mido co.
Vigawell Co. Ltd	Minako- XN5 Factory Saigon 3
SB Saigon Fashion	Asia Garment Manufacturer
Tae Young Vina	Eland Vietnam
Eins Vina	Washi Washi
Unipax	Hansoll Vietnam- Bau Xeo
FTN Vietnam	I.S Vietnam
All Super Enterprise	S.J Vina
Green Vina	K.J Vina
Avery Dennison RIS	Nam Phuong Co.
Atlantic	Teratex
Viet Hung	NALT ENTERPRISE (DNTN MAY QUOC TE)
CCH Top	Langham
Alta Mode Vietnam	Pungkook 2- Song Than
Eclat Textile	Pungkook 1- District 7
KL Texwell Vina	Park Corporation
Colltex Garment	Sun Garment
Tocontap Saigon JSC	Nurian
Sinwah Apparel	Lucretia
Quang Xuan Trading	A First Vina
Truong Vinh	M.D.K
Viet Tien	
Esquel	
Far Eastern	
Garmex Saigon	
Huu Nghi	
Nam Yang	

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

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Abercrombie & Fitch  
adidas Sourcing Limited  
American Eagle Oufitters, Inc.  
Ann Taylor Stores Corporation  
Boolim Buying Corporation  
Burberry Asia Ltd.  
Coach  
Columbia Sportswear Company  
Gap, Inc.  
G-Star Raw C.V  
H & M Hennes & Mauritz  
Kohl's Department Sotres, Inc.  
Levi Strauss & Co.  
Liz Claiborne International Ltd.  
LL Bean Inc  
New Balance Athletic Shoe Inc.  
Nike Inc., Vietnam  
Nordstrom  
Pentland Brands  
Phillips - Van Heusen Corporation  
Polo Ralph Lauren  
Primark Stores Ltd  
Puls Trading Far East Ltd.  
Sanyo Shokai Ltd.  
SBS Tekstil San. Ve Tic. AS.  
Sears Holdings Management Corporation  
Target  
The Jones Group  
The Representative of Apparel Sourcing Co. Ltd. In HCMC  
The Talbots, Inc.  
The Walt Disney Company  
Wal-mart Stores Inc.  
World Cat Vietnam Co. Ltd.