Better Work Nicaragua: Garment Industry
1st Compliance Synthesis Report

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Executive Summary

The Better Work Nicaragua programme, a partnership between the International Labour Organization (ILO) and the International Finance Corporation (IFC) aims to expand decent work opportunities in the textile and apparel sector in Nicaragua and improve the industry’s competitiveness by advancing compliance with Nicaraguan labour law and the principles of the ILO Declaration on Fundamental Principles and Rights at Work. It does so by conducting independent assessments of apparel factories, identifying areas where there are gaps in compliance, and offering advisory services and training to address those gaps and to work towards improvement. Better Work Nicaragua began formal assessments in February 2012. This report presents a summary analysis of the first 20 assessments.

The Better Work enterprise assessment consists of four on-site person days, and includes management and union and worker interviews, document reviews and factory observations. The data collected indicates levels of compliance with labour standards in eight clusters: four based on ILO core labour standards regarding Child Labour, Forced Labour, Discrimination and Freedom of Association and Collective Bargaining; and four based on national law regarding working conditions: Compensation, Contracts and Human Resources, Occupational Safety and Health (OSH), and Working Time.

The goal of the initial assessment is to establish a baseline of performance on compliance against which factories collaborate with Better Work Nicaragua and participating buyers to advance improvements.

At least once a year, Better Work produces public synthesis reports of factory assessments for each country programme. The goal of these reports is to provide transparent information for all programme stakeholders regarding working conditions in participating factories. Independent research commissioned by Better Work provides evidence that public reporting significantly contributes to continuous improvement in factory levels of compliance.

This is the first public synthesis report produced by Better Work Nicaragua. It represents the findings from assessments carried out from February 2012 to March 2013 in the first 20 factories, including information from pilot assessments conducted in October 2011. The initial assessment results reveal the following:

• No evidence of child labour and forced labour was found in the factories covered in this report.
• The most common areas of non-compliance in the areas of national labour law are in the categories of Occupational Safety and Health, and Contracts and Human Resources.
• Regarding Freedom of Association, the implementation of clauses in collective bargaining agreements was the area in which there were the highest levels of non-compliance.

The programme works with the factories to address these findings through advisory services, including the development of Improvement Plans and the formation of a bipartite Performance Improvement Consultative Committee (PICC), and training.
Section I: Introduction and Methodology

Introduction

The Better Work Programme, a partnership between the International Labour Organization and the International Financial Corporation (IFC) has worked with national and international stakeholders to design Better Work Nicaragua, which was launched in July 2010 and began in-country operations in February 2011. It was established as a cooperative agreement between the Nicaraguan government and the US Department of Labor, which is the principal donor.

The goal of the programme is to contribute to the competitiveness of the sector by improving working conditions through enhanced compliance with Nicaragua’s labour legislation and international labour norms. In this manner, the programme aims to reduce poverty in Nicaragua by expanding decent work opportunities in the apparel assembly sector.

Nicaragua’s modern export apparel industry began in the 1990s, and experienced rapid growth particularly after Nicaragua was granted Tariff Preference Levels (TPLs) for the industry under the Dominican Republic-Central America-United States Free Trade Agreement (DR-CAFTA). TPLs, which extend from 2004 until 2014, have been a key factor in the industry’s growth and competitiveness. There are currently 57 apparel firms located in export processing zones and industrial parks that operate under the Free Trade Zone regime. These employ approximately 66,000 workers, 53% of whom are women. The industry represents an important part of Nicaragua’s export economy, with US$ 1,348.2 million in exports, almost all of it to the US market. In 2012, Nicaragua was the 11th largest supplier of apparel into the US.

During the design phase of the programme, national stakeholders committed themselves to participate voluntarily and committed to contribute towards industry-wide programme implementation to enhance its effectiveness and build a credible reputation for socially responsible manufacturing throughout the country’s garment industry.

Better Work Nicaragua is advised by a Tripartite Project Advisory Committee (PAC) integrated, on behalf of the government, by members of the Ministry of Labour (MITRAB) and the National Free Trade Zone Commission (CNFZ); on behalf of the employers, by members of the Nicaraguan Garment and Textile Industry Association (ANITEC) and by the four most important union federations in the industry: The Sandinista Worker Union (CST), the “Jose Benito Escobar” Union Federation (CST-JBE), the Federation for Union Unification (CUS) and The Unitary Worker Federation (CUT). The PAC serves as a forum where these different actors can contribute to programme activities, provide support, discuss challenges and proposed solutions.

At the factory level, the programme provides support for the formation of the Performance Improvement Consultative Committee (PICC) to work on areas identified in the assessment report in a framework of dialogue. In unionized factories, the PICC includes representatives from all unions in

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1 Tariff Preference Levels (TPLs) are a special provision in DR-CAFTA that allows Nicaragua to export tariff-free a quantity of specific types of garments with flexible “rules of origin”, i.e. exempted from the requirement that garments manufactured in Nicaragua destined to the US market be made with fabric from the DR-CAFTA region. This allows Nicaraguan companies to use lower-cost fabrics from other regions of the world, and still benefit from duty-free entry into the US market.

the factory. In factories without unions, worker representatives are selected according to guidelines discussed in the PAC.

The programme also sponsors an Annual Buyers’ Forum to promote brand support for the programme, share knowledge, and have access to information on the context and industry actors in Nicaragua, and to encourage brands to increase their commitment to the Nicaraguan apparel manufacturing industry.

Beginning in 2013, Better Work Nicaragua and the Ministry of Labour have set in motion a technical cooperation programme with a focus on labour inspection.

**Institutional Context**

Regarding labour law, Nicaragua has ratified sixty-one ILO conventions, including the eight core conventions. Nicaragua also has an extensive national labour legislation, providing a solid legal framework for decent work.

Nicaragua’s first labour code was approved in 1945. Since then, the labour law has been modernized and developed to conform to international standards. Most standards are contained in Law No. 185, known as The Labour Code of the Republic of Nicaragua, which entered into effect in October 1996.

In May of 2013, a new Labor and Social Security Procedural Code came into effect in Nicaragua, the first of its kind in the region. The Code introduces an expedited and oral process in trials for labor issues, which reduces substantially the length of time in which these cases are resolved. The Code was developed with ILO technical support and resources, and was the culmination of a process of social dialogue and consultation with civil society. This was made possible, among other reasons, because in September 2008, the tripartite social partners signed the National Decent Work Programme of the ILO, with the aim of contributing to Nicaragua’s economic and social development through sustainable job creation and decent work, in the framework of efficiency, productivity, competitiveness and social justice. The document was also signed by representatives of the Nicaraguan Social Security Institute, and the Supreme Court of Justice.

In 2008, the main social actors (government, employers and workers) in the Free Trade Zone came together and signed the “Tripartite Labour Agreement for Understanding” in which they agreed to support an investment strategy based on the creation of decent jobs along the guidelines of ILO’s Recommendation 95 to combat poverty. They also agreed to establish communication mechanisms to foster good industrial relations in the framework of respect, trust and labour stability, and reaching harmonization with regard to controversial interpretations of labor law. This first agreement was key stepping stone for the future formation of the Tripartite Labour Commission of the Free Trade Zone.

In 2008, an interpretation different from the original sense was applied to some legal precepts contained in the Labor Code. As a result, both employers and workers sought legal recourse (Recurso de Amparo) established in the Political Constitution. The Supreme Court of Justice resolved

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5 Among these are requirements referring to the payment of annual leave, supplemental payment during maternity leave, payment for the first three days of leave, and severance payment.
repeatedly in favor of the plaintiffs. In 2012, the legal interpretation regarding these areas reverted back to their original interpretation.

Over the subsequent five years, the Tripartite Labour Commission of the Free Trade Zone has reached three more agreements to improve decent work conditions and to review annual increases in minimum wage for the sector. The latest agreement established minimum wage increases of 8% a year, every year from 2014 until 2017. The current monthly basic minimum wage in the Free Trade Zone in 2013 is 3708 córdobas (approximately US$ 151.34), though workers’ take-home pay is higher when incentives, bonuses, subsidies, and other extras are taken into consideration. The minimum wage in the free trade zone industry is higher than in other sectors of the Nicaraguan economy.

In addition to establishing minimum wages increases, the Tripartite Agreements establish a number of benefits for workers, aimed at increasing the purchasing power of the minimum wage. These include the creation of workplace-based commissariats to provide basic food baskets at subsidized prices, and government and private sector commitments to initiatives for the construction of low-cost housing. The latest Tripartite Free Trade Zone Labour Commission Agreement (December 2012) also calls for the creation of a Tripartite Occupational Safety and Health Committee.

This exercise in social dialogue – present in other instances such as the National Minimum Wage Commission and the National Occupational Safety and Health Commission – as well as the maturity of industrial relations, has been key to Nicaragua’s strategy in confronting the financial crisis and the potential and real loss of jobs as a result of declining orders from buyers in the export manufacturing sector, and companies shifting production to lower-cost regions.

Better Work Methodology

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 at least once a year. In its factory and industry-level reports, Better Work highlights non-compliance findings. The aim of the report is 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 cover fundamental rights at work and four cover basic conditions at work. Each of the eight clusters is divided into its key components, known as “compliance points.” The tool used to assess compliance (Compliance Assessment Tool) was consulted and endorsed by the members of the Project Advisory Committee.

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.


1 In other economic sectors outside of the Free Trade Zones, the law requires minimum wage negotiations by a Tripartite Committee every six months.

8 One prominent case was the closure of the Taiwanese complex, Nien Sing, which resulted in the loss of almost 15,000 jobs.
**Working Conditions**: The four other clusters assess conditions at work, including compensation, contracts and human resources, occupational safety and health, and working time. The compliance points covered in these clusters are largely consistent across countries; however, each compliance point contains specific questions that may vary from country to country due to differences in national legislation. National legislation is used as a reference point even if it is not in accordance with the international conventions that have been ratified by the country. In countries where national law either fails to address or lacks clarity around a relevant issue regarding conditions at work, Better Work establishes a benchmark based on international standards and good practices.

The detailed list of compliance points appears in the table below.

<table>
<thead>
<tr>
<th>Compliance Clusters</th>
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<tbody>
<tr>
<td><strong>Core Labour Standards</strong></td>
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</table>
| 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. Freedom to Associate  
  14. Union Operations  
  15. Interference and Discrimination  
  16. Collective Bargaining  
  17. Strikes |
| **Working Conditions** | |
| 5 Compensation | 18. Minimum wages/ Piece rate wages  
  19. Overtime wages  
  20. Premium Pay  
  21. Method of Payment  
  22. Wage Information, Use and Deduction  
  23. Paid Leave  
  24. Social Security and Other Benefits |
| 6 Contracts and Human Resources | 25. Employment Contracts  
  26. Contracting Procedures  
  27. Termination  
  28. Dialogue, Discipline and Disputes |
| 7 Occupational Safety and Health | 29. OSH Management Systems  
  30. Chemicals and Hazardous Substances  
  31. Worker Protection  
  32. Working Environment  
  33. Health Services and First Aid  
  34. Welfare Facilities  
  35. Worker Accommodation  
  36. Emergency Preparedness |
| 8 Working Time | 37. Regular Hours  
  38. Overtime  
  39. 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 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 at least one non-compliance in that point.

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 context and 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 both the context and the specific challenges in compliance identified in factory assessments.

Note on the factories represented in this report

The synthesis reports present a snapshot of the non-compliance situation in the industry based on the participating factories at the time of the assessment. As factories are assessed once per year, in some cases the data included in the synthesis reports is older than 6 months (and in this case, more than a year old), and may not reflect improvements and progress made since then.

This report reflects the findings of Better Work Nicaragua’s assessment of the first 20 factories, covering from February 2012 to March 2013. Pilot assessments were conducted in October 2011 and are included in this report. These factories employ 32,598 workers, of which 17,318 (47%) are women. The Better Work Nicaragua programme is therefore covering 34% of the companies in the industry and 47% of the workforce.

Limitations in the Assessment Process

The assessments carried out by Better Work follow a thorough checklist of approximately 280 questions covering the above-mentioned labour standards. The detailed factory assessment reports are based solely on what was observed, investigated and analysed during the performance of the actual assessment. Before the reports become official, factories are given seven days to provide feedback that may in some cases impact the final report language.

Better Work assessed non-compliance according to the criteria used by the MITRAB and labour inspectors at the time of assessment. As noted above, in December 2012 the interpretation of several legal precepts returned to their original sense. Consequently, non-compliance findings presented in this report in these areas are no longer considered as such under the current interpretations by the MITRAB. This is detailed in the corresponding sections of this report.

Freedom of association is an area that can be difficult to assess. In a multiple-union context, allegations of unequal treatment, discrimination and interference directed towards newly forming or existing unions can be difficult to verify. Better Work Nicaragua has dealt with this challenge by strengthening the expertise of its team in Industrial Relations working with the Better Work Global programme to develop tools and methodologies and by working with local stakeholders at both the sector level and the factory level to strengthen social dialogue.
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.

I. In the areas of Core Labour Standards:

1. Child Labour: There were no findings under the Child Labour cluster.

2. Forced Labour: There were no findings under the Forced Labour cluster.

3. Discrimination: Ninety-five per cent of factories were not meeting the legal quota of hiring 2% of workers with disabilities. The application of this legal norm is made difficult by the fact that the law has no regulations in place, and that certification of disability - which is carried out by the Ministry of Health in coordination with the National Council for the Promotion and Articulation of Rights of People with Disabilities – does not yet have those procedures in place. Fifteen per cent were found non-compliant under Gender Discrimination.

4. Freedom of Association and Collective Bargaining: In 40% of the factories, employers had not implemented at least one provision of the Collective Bargaining Agreement. In five factories, workers did not have access to the Collective Bargaining Agreement and their content. One factory had differential treatment of unions.

II. In the areas of Working Conditions (national labour law):

5. Compensation: All factories paid the minimum wage correctly. Sixty per cent, however, had non-compliances under Wage Information, Use and Deductions.

6. Contracts and Human Resources: A large percentage of factories (90%) had non-compliances related to information included in the terms and conditions in employment contracts. Sixty percent were non-compliant at the time of the assessment on Termination because workers did not receive severance payment proportionate to time of service. In half of the factories assessed, disciplinary measures did not comply with the companies’ by-laws approved by the Ministry of Labour.

7. Occupational Safety and Health: Ninety per cent of factories had non-compliances in worker protection, welfare facilities, health services and first aid, and protection against chemical and hazardous substances. Ninety-five per cent (95%) had non-compliance in Occupational Safety and Health Management Systems. In emergency preparedness, there was 80% non-compliance.

8. Working Time: The highest non-compliance in this cluster is in Leave (75%). A main issue here was the fact that at many factories at the time of the assessments, workers received payment instead of time off for annual leave. Non-compliance related to Overtime affected 45% of factories.

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9 This will no longer be considered non-compliance.
10 This will longer be considered non-compliance. A worker is entitled to severance once s/he has worked for one year.
11 This will no longer be considered non-compliance. If there is an agreement in place between workers and management, workers have the option of working during a portion of their 30 annual leave days, for which they are paid a premium.
Figure 1: Average non-compliance rates (February 2012 – March 2013)

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* These areas reflect levels of non-compliance that are not currently considered as such under the original interpretation of the law.
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 Labour Standards

   a. Child Labour
   There were no child labour findings.

   b. Discrimination
   The non-compliance findings under discrimination are concentrated in the Other Grounds compliance point, and specifically relate to 19 factories not employing the legally required proportion of disabled workers and to 12 factories where the accommodations required by national law for physically disabled persons were not in place. According to Nicaraguan law, 2% of the labour force must be made up of workers with disabilities. It is important to note that compliance with this legal requirement is made difficult by the fact that the law does not have regulations in place, and that the procedures for the definition and certification of workers as disabled by the Ministry of Health – in coordination with the National Council for Promotion and Articulation of Rights for People with Disabilities - are not yet in place.12

   Regarding non-compliance under Gender discrimination, in two factories gender was a factor in decisions regarding conditions of work and in one factory, gender was a factor in decisions regarding opportunities for promotion or access to training.

   c. Forced Labour
   There were no forced labour findings.

   d. Freedom of Association and Collective Bargaining
   The highest rate of non-compliance in this area was related to Collective Bargaining (40% non-compliance rate). In six factories the employer did not implement provisions of the collective agreement(s) in force. In five factories, workers did not have access to copies of collective bargaining agreements and their content.

   Nicaraguan labour law allows for more than one union in the workplace. During the reporting period there was one case of a factory in which unions were not treated equally by the employer in payment of incentives.

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12 As described above, this will no longer be considered non-compliance.
2. Working Conditions

e. Compensation

The highest non-compliance rate (60%) was under Compensation is in Wage Information, Use and Deduction. In 12 factories, workers were not informed about wage payments and deductions. Furthermore, in 6 factories the employer kept more than one accurate payroll.

The Social Security and Other Benefits compliance point has a non-compliance rate of 50% and is illustrated in the In Focus table below. It is important to point out, however, that this does not necessarily mean that workers do not receive payment, or that payments are not duly made to the respective institutions, but rather that the calculation of this payment was not correct as it included only the basic wages, without incentives, bonuses, overtime, or other extras.\(^{13}\)

In Focus 1: Social Security and Other Benefits

<table>
<thead>
<tr>
<th>Question</th>
<th>Number of factories out of compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does the employer deduct 6.25% from all workers' wages for contributions to social security?</td>
<td>5</td>
</tr>
<tr>
<td>Does the employer forward workers' contributions for social security to the Nicaraguan Social Security Institute?</td>
<td>1</td>
</tr>
<tr>
<td>Does the employer pay 16% of total wages to the Nicaraguan Social Security Institute?</td>
<td>5</td>
</tr>
<tr>
<td>Does the employer pay workers the 13th month of wage?</td>
<td>6</td>
</tr>
<tr>
<td>Does the employer pay 2% of the gross payroll to INATEC?</td>
<td>5</td>
</tr>
<tr>
<td>Does the employer comply with other wage payments?</td>
<td>4</td>
</tr>
</tbody>
</table>

The 35% non-compliance rate in Paid Leave and Permissions arises from a number of issues. At the time of the assessments, two factories were not paying correctly for maternity leave.\(^{14}\) Three factories were not paying workers on sick leave from one to three days.\(^{15}\) Three factories were not paying correctly for vacation leave, and one factory was not paying correctly daily breaks.

Regarding Method of Payment (20% non-compliance rate), this is due to 4 factories where workers' full wages were not paid in the manner required.

There was one finding under Overtime Wages due to one factory where the employer did not pay workers 100% more than their regular wage for all overtime hours worked.

f. Contracts and Human Resources

The highest non-compliance rate in this cluster is under Employment Contracts (90%) as shown in the In Focus table below.

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\(^{13}\) Nicaraguan law mandates that these payments be made on the basis of ordinary wages (salario ordinario), which includes incentives and other benefits, not basic salary (salario básico).

\(^{14}\) This will no longer be considered non-compliance.

\(^{15}\) This will no longer be considered non-compliance.
In Focus 2: Employment Contracts

<table>
<thead>
<tr>
<th>Question</th>
<th>Number of factories out of compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do workers know and understand the terms and conditions of their employment relation?</td>
<td>13</td>
</tr>
<tr>
<td>Do the employment contracts specify the terms and conditions of employment?</td>
<td>18</td>
</tr>
<tr>
<td>Do all persons who perform work for the factory, both on the premises and offsite, have a contract?</td>
<td>0</td>
</tr>
<tr>
<td>Do the internal by-laws comply with legal requirements?</td>
<td>3</td>
</tr>
<tr>
<td>Does the employer comply with requirements for migrant workers’ contracts?</td>
<td>0</td>
</tr>
</tbody>
</table>

In the majority of factories (18), contracts were not clear regarding wages. In 13 factories workers did not understand terms and conditions, mainly regarding payment of wages.

Under Termination (60% non-compliance rate), in 9 factories workers who resigned or were terminated without completing a year in the job did not receive severance proportionate to their months of service\(^{16}\) and in 6 factories they did not receive the correct amount for their thirteenth month payment.

The area of Dialogue, Discipline and Disputes has a 50% non-compliance rate. In 8 factories, disciplinary measures did not comply with the company’s by-laws approved by the Ministry of Labour. In 3 factories, grievances and disputes were not resolved in compliance with legal requirements. Furthermore, in two factories it was found that workers had been subjected to verbal harassment.

### g. Occupational Safety and Health

As is common in the industry worldwide, the Occupational Safety and Health cluster is where the highest non-compliance rates are concentrated. It is important to note that Nicaragua has extensive and detailed occupational safety and health laws and regulations.

In Focus 3: Chemicals and Hazardous Substances

<table>
<thead>
<tr>
<th>Question</th>
<th>Number of factories out of compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are chemicals and hazardous substances properly labelled?</td>
<td>13</td>
</tr>
<tr>
<td>Are chemicals and hazardous substances properly stored?</td>
<td>6</td>
</tr>
<tr>
<td>Does the employer have chemical safety data sheets for the hazardous chemicals used in the workplace?</td>
<td>12</td>
</tr>
<tr>
<td>Does the employer keep an inventory of chemicals and hazardous substances used in the workplace?</td>
<td>8</td>
</tr>
<tr>
<td>Does the employer provide adequate washing facilities and cleansing materials in the event of exposure to hazardous chemicals?</td>
<td>7</td>
</tr>
<tr>
<td>Does the employer provide information on the chemicals and hazardous substances used in the workplace to the Ministry of Labour?</td>
<td>10</td>
</tr>
<tr>
<td>Has the employer effectively trained workers who work with chemicals and hazardous substances?</td>
<td>11</td>
</tr>
<tr>
<td>Has the employer taken action to assess, monitor, prevent and limit workers’ exposure to chemicals and hazardous substances?</td>
<td>12</td>
</tr>
</tbody>
</table>

\(^{16}\) This will no longer be considered non-compliance.
On this point, 13 factories were found in non-compliance with the proper labelling of chemicals and hazardous substances. Twelve factories assessed by Better Work Nicaragua were out of compliance with regulations regarding a wide range of chemical substances, including chemicals used in cleaning as well as in production.

In Focus 4: Emergency Preparedness

<table>
<thead>
<tr>
<th>Question</th>
<th>Number of factories out of compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are emergency exits and escape routes clearly marked and posted in the workplace?</td>
<td>7</td>
</tr>
<tr>
<td>Are the emergency exits accessible, unobstructed and unlocked during working hours, including overtime?</td>
<td>7</td>
</tr>
<tr>
<td>Are there enough emergency exits?</td>
<td>1</td>
</tr>
<tr>
<td>Does the employer conduct periodic emergency drills?</td>
<td>6</td>
</tr>
<tr>
<td>Does the workplace have a fire detection and alarm system?</td>
<td>6</td>
</tr>
<tr>
<td>Does the workplace have adequate fire-fighting equipment?</td>
<td>3</td>
</tr>
<tr>
<td>Has the employer elaborated and implemented an emergency plan?</td>
<td>6</td>
</tr>
<tr>
<td>Has the employer trained an appropriate number of workers to use the fire-fighting equipment?</td>
<td>4</td>
</tr>
</tbody>
</table>

Compliance gaps related to emergency preparedness were identified in 80% of the factories assessed. The marking of exits and escape routes needed improvement in seven factories. Six factories had not elaborated and implemented emergency plans. Seven factories were also found to have obstructed or locked emergency exits. Six factories had not met legal requirements for conducting periodic emergency drills, while the same number of factories was not found to have fire detection and alarm systems.

Given the attention and concern about fire safety in the industry this year, fire safety, prevention and preparedness is a focus of Better Work Nicaragua’s training programme starting in 2013. Better Work Nicaragua has signed a Memorandum of Understanding with the Fire Department to roll out enforced safety training to all factories in Better Work.

In Focus 5: Health Services and First Aid

<table>
<thead>
<tr>
<th>Question</th>
<th>Number of factories out of compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do workers who are exposed to work-related hazards receive annual free health checks?</td>
<td>10</td>
</tr>
<tr>
<td>Does the employer address safety and health risks to pregnant or nursing workers?</td>
<td>9</td>
</tr>
<tr>
<td>Does the employer comply with legal requirements regarding pre-employment medical exams?</td>
<td>17</td>
</tr>
<tr>
<td>Does the employer comply with requirements on HIV/AIDS?</td>
<td>9</td>
</tr>
<tr>
<td>Has the employer ensured that there are a sufficient number of readily accessible first aid boxes/supplies in the workplace?</td>
<td>6</td>
</tr>
<tr>
<td>Has the employer provided first-aid training for workers?</td>
<td>12</td>
</tr>
</tbody>
</table>
Seventeen factories had not complied with legal requirements regarding pre-employment medical exams. Ten factories had not provided health checks for workers exposed to work-related hazards. Twelve factories were in non-compliance in providing first-aid training to workers.

In Focus 6: OSH Management Systems

<table>
<thead>
<tr>
<th>Question</th>
<th>Number of factories out of compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does the employer have an OSH license?</td>
<td>9</td>
</tr>
<tr>
<td>Does the employer have a steam generator license?</td>
<td>1</td>
</tr>
<tr>
<td>Does the employer have OSH technical organizational regulations (TOR) that are approved by the Ministry of Labour?</td>
<td>7</td>
</tr>
<tr>
<td>Does the employer investigate work-related accidents and indicate the technical recommendations necessary to prevent them?</td>
<td>14</td>
</tr>
<tr>
<td>Does the employer record work-related accidents?</td>
<td>5</td>
</tr>
<tr>
<td>Does the employer record work-related illnesses?</td>
<td>2</td>
</tr>
<tr>
<td>Does the employer report both accidents and non-occurrences to the Ministry of Labour?</td>
<td>4</td>
</tr>
<tr>
<td>Does the employer have OSH technical organizational regulations (TOR) that are approved by the Ministry of Labour?</td>
<td>7</td>
</tr>
<tr>
<td>Does the employer have a written Occupational Safety and Health (OSH) policy?</td>
<td>3</td>
</tr>
<tr>
<td>Does the factory require contractors and sub-contractors to comply with OSH standards?</td>
<td>13</td>
</tr>
<tr>
<td>Has the employer done an initial industrial hygiene risk assessment, a risk map, and annual risk assessments?</td>
<td>8</td>
</tr>
<tr>
<td>Has the employer elaborated an OSH training program?</td>
<td>5</td>
</tr>
<tr>
<td>Has the employer set up a joint worker/management OSH committee?</td>
<td>1</td>
</tr>
</tbody>
</table>

Although only one factory lacked the legally mandated joint worker/management OSH committee, OSH management systems was the area of the highest non-compliance rate. Nine factories did not have a current OSH license, and 8 had not conducted initial industrial hygiene risk assessment, a risk map and annual risk assessment. Thirteen factories did not have means to require contractors and subcontractors to comply with OSH standards.

Nicaraguan law requires that employers not only record work-related accidents and report them to the Ministry of Labour, but also requires them to investigate and indicate the technical recommendations for their prevention. Fourteen factories were not taking these measures.

In Focus 7: Welfare Facilities

<table>
<thead>
<tr>
<th>Question</th>
<th>Number of factories out of compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does the employer provide workers enough free safe drinking water?</td>
<td>7</td>
</tr>
<tr>
<td>Does the workplace have adequate and accessible toilets?</td>
<td>17</td>
</tr>
<tr>
<td>Does the workplace have adequate hand washing facilities and adequate soap?</td>
<td>14</td>
</tr>
</tbody>
</table>

Pre-employment medical exams are mandatory, but the law is unclear as to who should be covered, and whether the exams can be conducted during a certain period after a worker is actually working. The MITRAB has allowed for a certain grace period, but many employers do not conduct them at all. Better Work Nicaragua finds non-compliance when medical exams are required based on the work to be performed and they have not been provided prior to employment, or when employers do not cover the minimum obligatory medical tests.
Welfare facilities for workers are also an area where the majority of factories need improvement. In 17 factories, the number of bathrooms required by law for women and men was not sufficient. Fourteen factories need improvement in hand washing facilities and the availability of soap. In thirteen factories, dining areas were not adequate, mostly in terms of their capacity to accommodate all workers during lunch.

In Focus 8: Worker Protection

<table>
<thead>
<tr>
<th>Question</th>
<th>Number of factories out of compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are workers punished if they remove themselves from work situations that they believe present an imminent and serious danger to life or health?</td>
<td>0</td>
</tr>
<tr>
<td>Do steam generating machine operators have valid licenses?</td>
<td>2</td>
</tr>
<tr>
<td>Does the employer provide workers with all necessary personal protective clothing and equipment?</td>
<td>17</td>
</tr>
<tr>
<td>Are workers effectively trained to use the personal protective equipment that is provided?</td>
<td>10</td>
</tr>
<tr>
<td>Are materials, tools, switches, and controls within easy reach of workers?</td>
<td>1</td>
</tr>
<tr>
<td>Do workers have suitable chairs?</td>
<td>17</td>
</tr>
<tr>
<td>Are standing workers properly accommodated?</td>
<td>17</td>
</tr>
<tr>
<td>Are there sufficient measures in place to avoid heavy lifting by workers?</td>
<td>4</td>
</tr>
<tr>
<td>Are workers effectively trained to use machines and equipment safely?</td>
<td>7</td>
</tr>
<tr>
<td>Are proper guards installed and maintained on all dangerous moving parts of machines and equipment?</td>
<td>5</td>
</tr>
<tr>
<td>Are electrical wires, switches and plugs properly installed, grounded, and maintained?</td>
<td>5</td>
</tr>
<tr>
<td>Are appropriate safety warnings posted in the workplace?</td>
<td>0</td>
</tr>
</tbody>
</table>

Worker protection is also an area where improvement is needed. Most factories fell short of providing all the necessary Personal Protective Equipment (mostly masks, cloaks, earplugs, etc.). Ten factories had not adequately trained workers in the use of protective equipment. Workers did not have suitable chairs in 17 factories or standing mats in the same number of factories.

Under Working Environment, 65% of the factories were not in compliance. In this area, half of the factories had noise levels that exceeded acceptable levels.

h. Working Time

The highest non-compliance rate is related to worker’s leave vacations (75%). At the time of their assessment, in 13 factories workers received payment instead of time off for annual leave. Nicaraguan law grants 15 days annual leave every six months. In 8 factories, employers did not provide 15 days of annual leave for every six months of continuous service in the factory. In 6 factories, workers were not provided with the required 45 minute time for breastfeeding breaks, or were not granting that time as mandated by law.

This will no longer be considered non-compliance.
Concerning Overtime, in 8 factories the employer did not obtain prior authorization for overtime work from the Ministry of Labour when required. Overtime was not limited to three hours per day and nine hours per week in 6 factories. Overtime was found to be not voluntary in only one factory.

Under Regular Hours, in 6 factories regular work shifts exceeded the weekly legal limit and in 5 factories regular work shifts exceed the daily legal hour limit. It was found that working time records did not reflect the hours actually worked in 5 factories.
Section III: Conclusions

Conclusions and Next Steps

Economic development policies in Nicaragua focus on reducing poverty by creating opportunities for more and better productive employment and attracting investment with a commitment to decent work. In this initial phase of the Better Work Nicaragua, the programme’s work has been facilitated by the existence in Nicaragua of a robust labor legislation which includes the ratification ILO conventions – including those on the fundamental rights –; the debate and subsequent approval of a law that promotes the modernization of procedures that enable the exercise of those rights; and the existence of a solid tripartite dialogue between the social actors (government, employers and workers) in the sector. This level of industrial relations is not only considered an important factor in consolidating the conditions of stability for the creation of decent job opportunities, but also signals possibilities for an enabling environment for labor rights and upgrading in the industry.

This first public synthesis report reports on the first 20 factories assessed by Better Work Nicaragua, which represents 34% (roughly one third) of the garment industry in Nicaragua. As such, it represents a window through which to infer some industry-wide trends.

Factory assessment findings do not indicate the existence of problems related to child labour or forced labour. They do indicate an important need for improvement under Occupational Safety and Health, and Contracts and Human Resources. Working Time and Compensation are also areas where opportunities for improvement exist. Better Work Nicaragua is addressing these findings through advisory services, including the formulation of Improvement Plans, tracking progress through Progress Reports, and training workers and managers to address these issues in the PICC. The advisory process has helped build a relationship of mutual trust with the factories. Although still in their early stages, these processes have already produced promising and measurable results. Of the 20 factories assessed, 10 have functioning PICCs which have received training and have begun to meet on a regular basis at least once a month. Five more are in the process of forming their PICCs.

Occupational Safety and Health: Given the levels of non-compliance found under this cluster, a systematic approach is needed to ensure that improvement measures will lead to sustainable results. In particular, in light of the recent attention on fire safety, Better Work Nicaragua has made this a focus of awareness-raising and training in all the factories in 2013. In this sense, Better Work Nicaragua is in sync with one of the main priorities established in the Tripartite Agreements: to assess and to make recommendations for the reduction of risks in occupational safety and health.

Contracts and Human Resources: Most non-compliance findings under this cluster were recorded under Employment Contracts, and particularly regarding information on terms and conditions of employment related to wage information. Better Work Nicaragua will be looking at this issue in more depth.

Other Findings: Correct payment of Social Security and Other Benefits is also an area that warrants attention. Because these payments are not taking into account “ordinary wages”, but rather are calculated on the basic wage, both workers and important government institutions are being negatively impacted.

In order to create a more accurate and comprehensive picture of working conditions in Nicaragua’s garment industry, to identify challenges and demonstrate improvement more systemically, Better Work Nicaragua will be looking at this issue in more depth.

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19 An MOU was recently signed with the Fire Department to roll out fire safety training in all participating factories.
Work Nicaragua proposes to work with tripartite actors to explore mechanism and/or incentives to roll out the programme in the entire industry. Better Work Nicaragua will continue working with industry actors in enhancing the country’s commitment to decent work and the development of high standards in the sector, in order to foster the country’s competitive advantage as an ethical sourcing destination.
Annex A: Factories covered in this report

1. AALFS UNO, S.A.
2. CAMBRIDGE INTERNACIONAL S.A
3. COTTON ACE DE NICARAGUA, S.A
4. DASOLTEX, S.A
5. EINS, S.A
6. FORMOSA TEXTIL (NICA), S.A
7. GILDAN ACTIVEWEAR
8. GUANICA, S.A
9. HANDSOME NICA, S.A.
10. HANSAE MANAGUA
11. HANSAE NANDASMO
12. IRENE, S.A.
13. ISTMO TEXTIL NICARA S.A.
14. KALTEX ARGUS S.A
15. PRISMA, S.A
16. SAE-A TECNOTEX, S.A
17. TEXNICA, S.A
18. TEXTILE UNLIMITED, S.A
19. TEXTILES VALIDOS, S.A
20. USLC APPAREL, S.A

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

1. Gap Inc.
2. Levi Strauss
3. Target
4. Walmart
5. Adidas
6. Fishman &Tobin
7. Sears
8. Patagonia
9. Talbots