



BetterWork

**Annual report 2017:
An Industry and
Compliance Review**

Nicaragua



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Labour
Organization



**International
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WORLD BANK GROUP

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In 2016, Nicaragua achieved a GDP growth rate of 4.7%. The country has had a remarkable growth in its economy in recent years, averaging a rate of 5.3% since 2011, which has been above the growth of other countries of Central America and the Dominican Republic. According to the Central Bank of Nicaragua, the share of exports in GDP went from 17.8% in the period 1994-2001 to 40.9% in 2012-2016, with the results largely due to exports from the free trade zones, mining and manufacturing.

The textile and apparel industry in Nicaragua has seen several important changes during the past year. Stakeholders' efforts during the past decade have been rewarded by an increase in orders from international brands and the opening of new factories. According to the International Financial Corporation (IFC), Nicaragua's apparel exports have grown from \$715 million in 2005 to \$1.5 billion in 2017—accounting for over 30 percent of the nation's total exports. The strengthening of the relationship between the Government of Nicaragua, the private sector and Better Work is encouraging, and the Government has publically urged all factories to enroll in Better Work Nicaragua by the end of 2017.

This Annual Report from Better Work Nicaragua is meant to capture the present compliance status of participating factories and the textile and apparel industry. This report is intended to share a snapshot of the current status of the industry and to inform interested observers about future projects and actions. The Better Work Nicaragua team hopes that the reader finds this report as an informative tool, and that the industry stakeholders will proactively address the areas of opportunities highlighted within it.

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Summary Findings

Better Work Nicaragua has been conducting assessments of the working conditions in Nicaraguan factories that export since 2011. Each assessment consists of a two-day on-site visit, which includes meetings with management and workers, document reviews, and observations from factory facilities and dormitories. The goal of the programme is to ensure continuous improvements in the industry to raise the overall compliance level.

This report illustrates findings from assessments conducted between September 2015 and March 2017 by Better Work Nicaragua in 23 factories. The data collected reports non-compliance with labour standards based on eight clusters: four based on ILO Core Labour Standards encompassing Child Labour, Discrimination, Forced Labour, and Freedom of Association and Collective Bargaining, and four clusters based on the national law regarding working conditions and including Compensation, Contracts and Human Resources, Occupational Safety and Health, and Working Time. Assessment results from factories covered in this report are largely consistent with findings of the past reports – with non-compliance concentrated in Occupational Safety and Health, Freedom of Association and Collective Bargaining and Contracts and Human Resources. The major findings are as follows:

ILO CORE LABOUR STANDARDS

Child labour

Better Work Nicaragua found no instances of Child Labour during the assessment period.

Discrimination

Better Work Nicaragua found no instances of Discrimination on Gender, Race, Religion and Politics, or any other grounds during the assessment period.

Forced labour

Better Work Nicaragua found no instances of Forced Labour during the assessment period.

Freedom of association and collective bargaining

Non-compliances under the Freedom of Association and Collective Bargaining Cluster Discrimination were focused in the Collective Bargaining compliance point (9 percent of all factories).

WORKING CONDITIONS

Compensation

The non-compliances in the Compensation cluster are concentrated in Wage Information, Use and Deduction (22 percent non-compliant factories) and Social Security and Other Benefits (22 percent of factories non-compliant).

Contracts and human resources

Most cases of non-compliance are related to dialogue/discipline aspects (26 percent), and employment contracts with 17 percent of factories non-compliant.

Occupational safety and health

As in previous reports, the non-compliance rates in Occupational Safety and Health (OSH) continues to be high. The non-compliance rates are concentrated in Working Environment (91 percent), Worker Protection (87 percent), Chemicals and Hazardous Substances (78 percent), and OSH Managements Systems (61 percent).

Working time

The non-compliances in the Working Time cluster are 26 percent for the Overtime and 13 percent for Regular Hours.



100
Training
Sessions

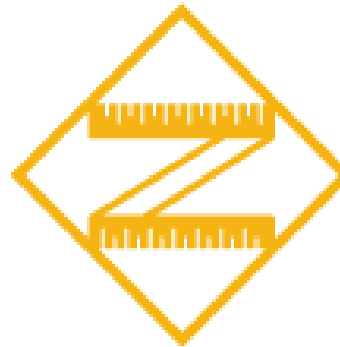


23
Factories



940
Workers
Interviewed

174
Management



154
Advisory
Visits

2342
Supervisors
and Workers



23
Assessment
Visits

Section I: Introduction

The Better Work programme is a partnership between the International Labour Organization (ILO) and the International Finance Corporation (IFC). The comprehensive programme is bringing together stakeholders from all levels of the garment industry to improve working conditions and respect of labour rights, and boost the competitiveness of apparel industries.

Better Work Nicaragua 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 Labour, 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 standards. In this manner, the programme aims to reduce poverty in Nicaragua by expanding decent work opportunities in the apparel assembly sector.

Factories participating in Better Work are monitored and advised through factory assessments, advisory visits and trainings.¹ 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 the factory. In factories without unions, worker representatives are selected according to guidelines discussed in the social partners who form the Project Advisory Committee (PAC). As in all Better Work country programmes, Better Work Nicaragua works with a Project Advisory Committee, which includes representatives of governments (National Free Trade Zone Commission, the Ministry of Labour), the employers' association (ANITEC), and leaders of the four national union confederations with a presence in the apparel industry and signatories of the Tripartite Agreements (CST, CST-JBE, CUS and CUT).

In addition to the in-factory work, Better Work Nicaragua also supports activities with national constituents to strengthen their participation in the programme and their role in sustaining continuous improvements of working conditions. Better Work Nicaragua has been coordinating with the Ministry of Labour to strengthen the skills of labour inspectors. The programme has also supported the development of a capacity-building initiative for union leaders, including leaders at the grass-roots factory level. Recently Better Work Nicaragua has developed an online forum for all supervisors that have trained so they can be in a safe network where they can also share their experiences or ask help in any particular case.

In hopes to increase transparency about factory working conditions to programme stakeholders as well as a wider public audience, Better Work country programmes produce annual reports highlighting non-compliance findings. Synthesis reports present a snapshot of the non-compliance situation in participating factories during reporting periods. The non-compliance rates presented in this report refer to participating factory averages. Since our inception in 2011, Better Work Nicaragua has produced 3 annual reports. The present report illustrates the findings from assessments carried between November 2015 and March 2017 in 23 factories.

To provide some context to Nicaragua's apparel industry and its current level of non-compliance, this report starts with a short background of the industry, the Better Work Nicaragua programme and policy developments in the reporting period in Section I. Non-compliance findings and the thematic analysis on working hours in the industry are presented in Section II, followed by conclusions in Section III. The Better Work methodology and non-compliance calculations are discussed in Annex C.

INSTITUTIONAL CONTEXT

During the reporting period, the presidential elections were held in Nicaragua together with legislative elections. Daniel Ortega Saavedra as President and Rosario Murillo as Vice-president were elected.

The 2016 Annual Report of the Central Bank of Nicaragua shows that exports from free zones amounted to 2,612.8 million dollars, presenting a growth of 4.8 percent in 2016. Meanwhile, employment in the manufacturing industry grew by 4.5 percent (2.3 percent in 2015), partly as a result of jobs generated by companies operating under the free zone regime, which reached a level of occupation of 114,568 workers in November 2016 (109,982 in the same Month of 2015) and a growth rate of 4.2 percent.

Finally, the adjustment to the minimum wage for free zone workers was established based on the agreement of the Tripartite Free Trade Commission for the period 2014-2017. This adjustment was 8.0 percent per annum, effective as of January 1st 2017. The current minimum wage is C\$5.044, approximately US\$168 per month.

Throughout the years the government of Nicaragua has been seeking the best strategy to promote and protect investments in Nicaragua. Part of the strategy of promotion, development and protection of investments in the country has been the creation of specialized agencies to carry out this task, such as ProNicaragua.

In 2015 the legal framework of the agency Pro Nicaragua was strengthened with the approval of the Law number 915, to establish the agency and the Presidential Delegation for the Promotion of Investments, Exports and Foreign Trade Facilitation. At the same time the law number 917 was approved, "Law of Free Zones". Both laws have the objectives of keeping and attracting foreign investment.

INDUSTRY DEVELOPMENTS

The relations between Better Work Nicaragua and the main industry stakeholders have considerably improved and implemented new strategies for the

competitive development of the sector.

As part of the strategic Alliance with the Government, Better Work Nicaragua has moved to its new facilities within the complex belonging to the Corporation of Free Zones of Nicaragua. This will further strengthen stakeholder relationships and is expected to have a greater impact on new businesses registration with the Better Work Nicaragua program.

The Free Zones sector was the sector with the highest growth in exports in 2016 (9%), according to figures from the Nicaraguan Exporters Association (APEN). For this year 2017 it is expected that total exports will be estimated at 5 billion dollars, despite the decline in international prices. Likewise, the Superior Council of the Private Enterprise (COSEP) with the support of investment agencies for Nicaragua has promoted to date dozens of laws that favor the sector. The Better Work Nicaragua program plays a major role in this development.

BETTER WORK NICARAGUA ACTIVITIES IN THE REPORTING PERIOD

Industry seminars

On November 16th, 2016 Better Work Nicaragua held an industry seminar on promoting positive industrial relations: social dialogue and grievance mechanisms. The industry seminar was attended by 35 PICC members (workers and management) from 16 factories.

On March 30th, 2017 Better Work Nicaragua held two industry seminars on "Problem Solving" and "Key Performance Indicators". These seminars were attended by 44 management representatives from 19 factories. The first seminar (problem solving) offered tools and a process for solving problems and foster a culture of continuous improvement. It introduced participants to a way to solve problems that generates knowledge and helps people doing the work learn how to learn. The seminar was based on key tools and techniques from Toyota Production Systems and Lean Manufacturing and is well suited to address problems of medium to high complexity in the factory.

The second seminar provided an introduction to performance indicators and how they can be used to drive behaviour in a business. It also provided key concepts such as leading and lagging indicators and examples of OSH and HR indicators with a view to enable participants to design and select appropriate indicators that are relevant to factories and will help improve performance.

Project advisory committee (PAC) meetings

There were two PAC meetings during this reporting period, in November and December 2016. The first meeting focused on presenting the results of the independent impact assessment of Better Work Nicaragua, carried out by Tufts University,² which demonstrates the programme's impact on improved working conditions and firm competitiveness. The second meeting aimed at presenting the results of the consultation process that an independent consultant lead in order to elaborate a PRODOC for the II Phase of BWN. An overview of the results was presented to the PAC members and they confirmed that their expectations and suggestions were adequately reflected for the most part.

Other BWN activities

On 12th November, Better Work Nicaragua held a workshop for union leaders on social dialogue in the PICC. 29 union leaders (of which 16 were women) from 7 factories attended this activity.

On 13th October, Better Work Nicaragua organized a seminar on continuous improvement, consensus and dialogue in the free trade zone. It was attended by 142 participants from factories that are not yet in the Better Work Nicaragua programme. Better Work Nicaragua presented the programme and shared the results of the Best Practices Study that Better Work Nicaragua developed in the past.

An International Congress on Labor Productivity was held in Nicaragua with participants from all Central American countries, this congress was organized by the Ministry of Labour with Better Work Nicaragua

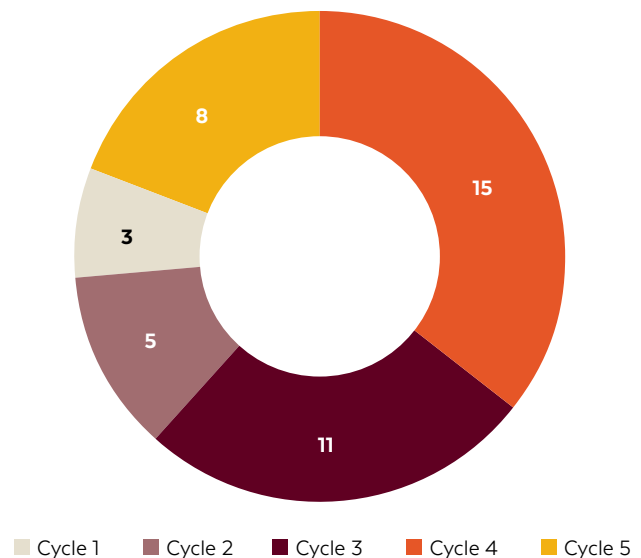
funding. Representatives of Ministries of Labour presented and shared good practices and achievements in their countries regarding productivity issues, 145 participants attended this activity.

During the month of October, Better Work Nicaragua concluded the 2016 capacity building programme for the labour inspectors of Ministry of Labour. This training was aimed to share experiences and knowledge with the inspectors in order to enhance their knowledge and improve their skills in issues such as: gather information, payroll analysis, tips to identify possible findings, interview process among other. A total of 100 inspectors were trained. Another capacity program training plan is being developed for the current year.

FACTORIES IN THE SAMPLE

This report presents findings 23 factories carried between September 2015 and March 2017. Among the 23 factories, 12 are direct exporters and 7 are subcontractors. In terms of size, most factories employ over 500 workers. There were 7 new factories in the programme and that finished Cycle 1, and the average Cycle in this reported period was 4.³ Most factories finished Cycle 4, indicating the maturity of factories in the programme.

FIGURE 1. BETTER WORK CYCLE



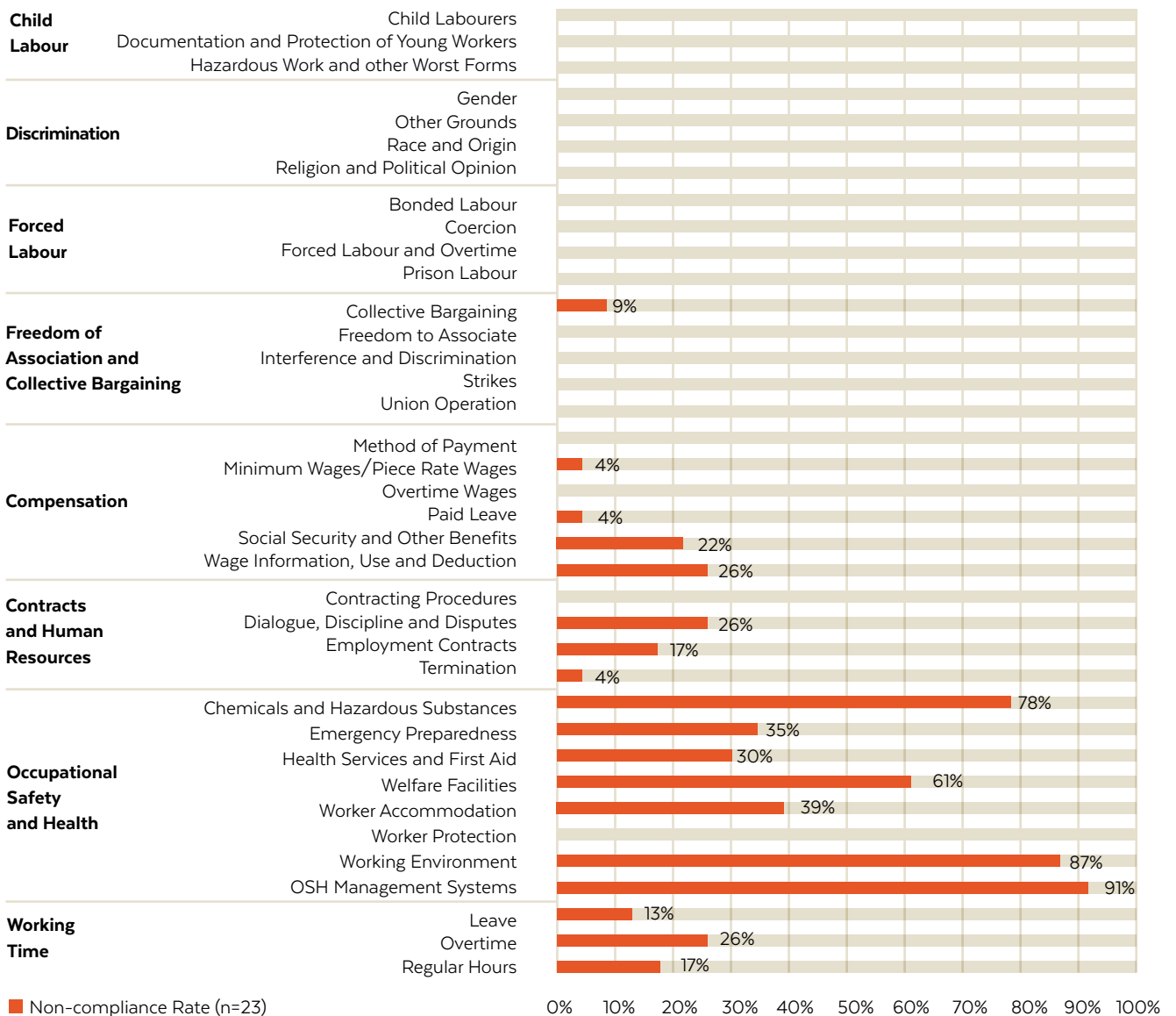
Section II: Findings

COMPLIANCE SITUATION

Figure 2 summarizes the non-compliance rates for the 23 assessed factories in the reported period. Non-compliance rates along with the number of

factories are reported for each cluster point under the eight Core Labour Standards and Working Conditions Clusters. Detailed individual discussions are presented in the following section.

FIGURE 2. NON-COMPLIANCE RATE BY COMPLIANCE POINT.



Detailed Findings

CHILD LABOUR

There was no evidence found of non-compliance for Child Labour.

DISCRIMINATION

There was no evidence found of non-compliance in Compliance Points in the Discrimination Cluster.

FORCED LABOUR

There was no evidence found of non-compliance for Forced Labour.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

Better Work Nicaragua found no non-compliances in the Freedom of Association, Interference and Discrimination, Strikes, or Union Operations Compliance Points.

Collective bargaining

One factory (four percent of all factories) was found to not consult with the union when required by the collective bargaining agreement.

Two factories (nine percent of factories) failed to implement all provisions of the collective agreement in force.

COMPENSATION

Better Work Nicaragua found no non-compliances in the Method of Payment or Overtime Wages compliance points. The non-compliances in the Compensation cluster are concentrated in Wage Information, Use and Deduction (26 percent non-compliant factories) and Social Security and Other Benefits (22

percent of factories non-compliant).

Paid leave

One factory (4%) was non-compliant in the Paid Leave compliance point due to their inability to pay workers correctly for annual leave.

Social security and other benefits

One factory was non-compliant in the Social Security and Other Benefits compliance point due to their inability to pay workers a 13th month of wages. The National labour law states that all workers should receive a 13th month salary every 12 months of continuous work or its equivalent in case the continuous work is less than 12 months.

Three factories (13 percent) factories did not meet the requirements for to collecting and forwarding workers' contributions to social insurance funds.

Five factories (22 percent) were non-compliant with paying 2% of the gross payroll to INATEC. This 2% contribution is similar to an education fund managed by the government to use and distribute for specific trainings and certifications for workers.

Five factories (22 percent) were in non-compliance with accurately sending the percent of workers' total wages the Nicaraguan Social Security Institute. In Nicaragua, the employer contribution to the Social Security Institute is 18.5%.

Wage information, use and deduction

Five factories (22 percent) were in non-compliance with keeping one accurate payroll record. Accurate time records are essential in assessing if workers are properly compensated and to ensure suitable working hours. In Nicaragua, the regular work hours vary

according to the shift.

Five factories (22 percent) did not properly inform their workers about wage payments and deductions. This is often due to a lack of system that accurately informs all labor force about payments and other related matters. In some cases, management has posted information about payments and deductions in the workplace, however, workers during the interviews lack awareness of bonus compensations and social security contributions.

Minimum wages/piece rate wages

One factory (4%) was non-compliant in the Minimum Wage compliance point due to their inability to pay at least minimum wage for temporary and probationary workers.

CONTRACTS AND HUMAN RESOURCES

The non-compliance in the Compensation Contracts and Human Resources Cluster are 26 percent for Dialogue, Discipline, 17 percent for Dispute and Employment Contracts; and 4 percent for Termination. There were no non-compliances found in the Contracting Procedures compliance point.

Dialogue, discipline and disputes

Three factories (13 percent) had disciplinary measures that did not comply with the company's by-laws approved by the Ministry of Labor. In some cases, these violations are consistent with the lack of information regarding disciplinary measures to new hires.

Four factories (17 percent) had workers that reported bullying, harassment, or being subject to humiliating treatment. Better Work Nicaragua has been working closely with factory managers and union representatives to avoid all types of abuses, however, verbal abuse is still present in some factories especially from supervising positions. To this end, Better Work Nicaragua has trained over 1,500 supervisors through its Supervisory Skills training programme, improving the relationship between supervisors and the workers on

their lines, and also positively impacting productivity while doing so.⁴

Employment contracts

One factory did not ensure that all persons performing work for the factory, both on the premise and offsite, had a contract. No matter the position held in the factory, all workers are entitled by the law to have a contract which could defer based on time, activity or condition.

Four factories (17 percent) did not properly specify the terms and conditions of employment relations. All workers are entitled to receive a copy of their contract which must contain a full and detailed description of the activities to be performed during the employment relation. Some factories do not specify with clarity these activities and in some cases the position held and its activities are not congruent with the contract.

One factory's internal by-laws did not comply with legal requirements.

Termination

One factory was not including the total salary of workers (production incentives) for the severance payment calculation.

OCCUPATIONAL SAFETY AND HEALTH

Non-compliances under the OSH cluster are mainly concentrated within Health Services and First Aid (30 percent), OSH Management Systems (61 percent), Worker Protection (87 percent), and Welfare Facilities (39 percent).

Chemicals and hazardous substances

National Law requires keeping containers properly identified and stored safely in the workplace. During the assessment period, fourteen factories (61 percent) did not properly label chemicals and hazardous substance and 6 factories (26 percent) did not have the safety data sheets for chemicals.

Any type of chemical, especially those used in cleaning, tinting and dyeing must come with a material safety data sheet (MSDS) as defined by the National Occupational Health and Safety Commission. While the MSDS is not distributed by a retailer to the consumer, it is a requirement for well-defined workers handling the chemicals and emergency personnel so that they will know how to safely handle the substance. The MSDS for any given chemical must be clearly stated in Spanish. It must include the product name, the product's ingredients, and the proportions in the formulation. The information should also include the physical or chemical properties of the solution. The MSDS must also state any hazard informa-

tion about the product as well as information on the safe use and handling of the product. Information on first aid is also required so that users are well aware of how to react in case there is an accident or a misuse of the product. It should also be indicated if the chemical is too dangerous to be transported.

As stated by the law, all factories handling chemicals or vulnerable to chemical exposure should have washing or cleansing facilities so in the case of skin or eye contact with a chemical water rinsing/flushing is highly recommended before moving the exposed person to an emergency facility or institution. Four factories (17 percent) did not have proper facilities.

TABLE 1: IN FOCUS TABLE: CHEMICALS AND HAZARDOUS SUBSTANCES

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Are chemicals and hazardous substances properly labelled?	14	61%
Does the employer have chemical safety data sheets for the hazardous chemicals used in the workplace?	6	26%
Does the employer provide adequate washing facilities and cleansing materials in the event of exposure to hazardous chemicals?	4	17%
Does the employer provide information on the chemicals and hazardous substances used in the workplace to the Ministry of Labour?	3	13%
Has the employer effectively trained workers who work with chemicals and hazardous substances?	2	9%
Does the employer keep an inventory of chemicals and hazardous substances used in the workplace?	1	4%
Has the employer taken action to, prevent and limit workers' exposure to chemicals and hazardous substances?	1	4%
Are chemicals and hazardous substances properly stored?	0	0%

Emergency preparedness

Since emergencies can occur, preplanning is necessary. An urgent need for rapid decisions, shortage of time, and lack of resources and trained personnel can lead to chaos during an emergency. Time and circumstances in an emergency mean that normal channels of authority and communication cannot be relied upon to function routinely. The stress of the situation can lead to poor judgment resulting in severe losses. During the assessment period two factories (9 percent) failed to present proper emergency plans.

An emergency exit is a clear, safe way to get out of a structure or building. It provides fast exit in case of

emergency such as a fire. First responders may also use it as a way into the building so it is very important to make sure they are ready to use at all times and to make sure workers use them emergency exit signs are required. Two factories (9 percent) did not have exit and escape routes clearly marked.

Emergency drills may be a nuisance to your employees, but they are paramount to your emergency preparedness. Running a drill is dependent on several factors: your building type, occupancy, identified risks, and the kind of emergency being tested. Three factories (13 percent) did not conduct periodic emergency drills.

TABLE 2 : IN FOCUS TABLE: EMERGENCY PREPAREDNESS

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer conduct periodic emergency drills?	3	13%
Are emergency exits and escape routes clearly marked and posted in the workplace?	2	9%
Are floors and corridors in line with legal requirements?	2	9%
Are the emergency exits accessible, unobstructed and unlocked during working hours, including overtime?	2	9%
Has the employer elaborated and implemented an emergency plan?	2	9%
Has the employer trained an appropriate number of workers to use the fire-fighting equipment?	1	4%
Are flammable materials safely stored?	0	0%
Are possible sources of ignition appropriately safeguarded?	0	0%
Are there enough emergency exits?	0	0%
Does the workplace have a fire detection and alarm system?	0	0%
Does the workplace have adequate fire-fighting equipment?	0	0%

Health services and first aid

Six factories (26 percent) did not comply with legal requirements regarding medical checks for workers. Although employers are conducting medical check-ups for their workers, they are not conducting them for the total workforce leaving in some cases over 75 percent of workers out of the medical examinations.

In two factories (9 percent) management did not ensure sufficient number of readily and accessible first aid kits.

TABLE 3: IN FOCUS TABLE: HEALTH SERVICES AND FIRST AID

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer comply with legal requirements regarding medical checks for workers?	6	26%
Has the employer ensured that there are a sufficient number of readily accessible first aid boxes/supplies in the workplace?	2	9%
Does the employer comply with requirements on HIV/AIDS?	1	4%
Does the employer address safety and health risks to pregnant or nursing workers?	1	4%
Has the employer provided first-aid training for workers?	1	4%

OSH management systems

Nine factories (39 percent) did not completely comply with the law requirements, for the investigation of work related accidents and diseases. This is due to the fact that within the investigative process the members of the Joint Occupational Health and Safety Commission were not included, or the root cause of the accidents was not established to avoid the occurrence of the same.

TABLE 4: IN FOCUS TABLE - OSH MANAGEMENT SYSTEMS

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer record and investigate work-related accidents and illnesses, and indicate the technical recommendations necessary to prevent them?	9	39%
Has the employer done an initial industrial hygiene risk assessment, a risk map, and annual risk assessments?	8	35%
Does the factory require contractors and sub-contractors to comply with OSH standards?	3	13%
Does the steam generator comply with legal requirements?	3	13%
Has the employer designated a person exclusively devoted to OSH promotion, prevention and protection?	2	9%
Has the employer set up a joint worker/management OSH committee?	2	9%
Does the employer have an OSH license?	2	9%
Does the employer report both accidents and non-occurrences to the Ministry of Labor?	1	4%
Does the employer have updated OSH technical organizational regulations (TOR) that are approved by the Ministry of Labor?	0	0%
Does the employer record work-related accidents and illnesses?	0	0%
Has the employer elaborated an OSH training program?	0	0%

Welfare facilities

The main reason for non-compliance is due to inadequate accessible toilets in nine factories (39 percent).

Worker protection Sixteen factories (70 percent) did not comply with ergonomic requirements during the assessments.

Eleven factories (48 percent) didn't provide workers with all necessary personal protective clothing and equipment. In some cases, the employers are compliant with buying enough personal protective clothing and equipment for their workers but they fail to distribute them on time or the workers are not using the equipment when needed.

TABLE 5: IN FOCUS TABLE - WORKER PROTECTION

COMPLIANCE QUESTION	# OF FACTORIES FOUND NC	NC RATE BY QUESTION
Does the employer comply with ergonomic requirements?	16	70%
Does the employer provide workers with all necessary personal protective clothing and equipment?	11	48%
Are workers effectively trained and encouraged to properly use the personal protective equipment and machines?	3	13%
Do steam generating machine operators have valid licenses?	2	9%
Are appropriate safety warnings posted in the workplace?	1	4%
Are electrical wires, switches and plugs properly installed, grounded, and maintained?	0	0%
Are proper guards installed and maintained on all dangerous moving parts of machines and equipment?	0	0%

Working environment

Recent studies have demonstrated that employees working under a safe and positive environment tend to be more productive and happy, and there is a substantial decrease on absenteeism due to medical issues. Nineteen factories (83 percent) had noise levels exceeding the legal parameters and 15 factories (65 percent) had temperature levels exceeding the legal limits.

Dirty light fixtures can reduce essential light levels, making it difficult and unsafe for employees to complete their daily tasks. Clean light fixtures also significantly improve lighting efficiency in the workplace. Six factories (25%) did not have adequate illumination during the assessments.

WORKING TIME

The non-compliances in the Working Time cluster are 26 percent for Overtime, 17 percent for Regular Hours, and 13 percent for Leave.

Leave

Non-compliance under Leave is attributable to issues related to gender equality. Two factories (9 percent) did not provide their workers with breast-feeding periods. Two factories (9 percent) did not provide required time off for paternity leave. Most of the non-compliance findings related to Working Hours and Overtime were due to the excessive overtime hours that some factories indicate they need

to comply with their production orders. Excessive overtime, no record of overtime and the absence of legal authorization to exceed the limit are the most common findings. The local Ministry of Labour is authorized to provide special permissions to exceed the legal over time limit to those factories under special circumstances,⁵ but usually non-compliant factories fail to obtain the necessary permission. Sometimes factories claim that they have legal permission to go over the legal limit, but they often do not have the pertinent documentation. Better Work Enterprise Advisors have been working on different strategies to approach this recurrent issue with the PICC.

Based on discussions with factories in Better Work Nicaragua in 2016 and 2017, representatives of at least 10 factories stated that Buyers (Brands) at least once a year come up with emergency orders that affect the entire planning and production processes. They express their fear of losing their buyers if they can't produce and deliver this emergency orders on time, which results in factories resorting to desperate measures, including using excessive overtime.

Regular hours

Compliance on some Regular Hours issues have been showing steady and significant improvement during the past 3 years. Compliance on working time records

reflecting the actual hours worked by workers has improved from 2014 to 2016. In 2014, 30 percent of factories were non-compliant on this issue. Non-compliance decreased to 19 percent in 2015, and full further to nine percent in 2016.

Two factories (9 percent) had regular daily or working hours exceeding the legal limit.

Three factories (13 percent) recorded working times that did not reflect the hours actually worked by workers.

One factory (4%) was not able to provide enough evidence of required daily breaks for employees.

Overtime

Three factories (13 percent) did not obtain prior authorization to work overtime from the Ministry of Labour when required. Under extreme circumstances the Ministry of Labour is entitled to provide special permissions to go over the legal limits but factories failed to present those as well. These special permissions are meant to protect the investment and the local jobs according to the Ministry of Labour.

Six factories (26 percent) did not limit overtime to three hours per day and nine hours per week.

Section III: Conclusions

ENGAGING WITH NATIONAL STAKEHOLDERS

Better Work Nicaragua's new strategy foresees the need to ensure both institutional and technical sustainability.

Institutional sustainability will focus in the creation of a policy environment promoting compliance, based on the national strategy for the sector incorporating compliance as one of the drivers of competitiveness and productivity. This strategy will be implemented by the government, employers' and workers' organizations to strengthen capacities, with each stakeholder completing their respective role. Better Work Nicaragua will support the government with the elaboration of the strategy.

In the technical dimension, the sustainability approach will focus on transferring the technical capacities to MITRAB and factories themselves to implement the

Better Work Nicaragua assessment methodologies and tools, laying the groundwork for a future scheme of compliance assessment with participation of the public and private sectors. By building the capacities of MITRAB, and particularly the OSH and labour inspections, it will be ensured that the public sector that has the mandate to enforce working conditions in the private sector has the capacity to carry out assessment of compliance as part of its inspection duties. Factories with strong technical capacities will be able to incorporate compliance as part of their management systems and will be prepared to implement credible compliance systems with a greater weight of self-assessment that can gain the brands buy-in. This transference of capacities for assessments will allow Better Work Nicaragua to test the viability of different options of public and private participation in conducting compliance assessments with the standards of quality and objectivity of Better Work.

Annexes

ANNEX A: FACTORIES COVERED IN THIS REPORT

AALFS UNO, S.A.
 Gildan Activewear Rivas II, S.A
 Kaltex Argus S.A
 USLC APPAREL, S.A
 SERATEX NICARAGUA, S.A
 Roo Hsing Co. Nicaragua S.A.
 HANDSOME NICA, S.A.
 ISTMO TEXTILES, SOCIEDAD ANONIMA
 TEXTILE UNLIMITED, S.A
 UNIFIRST NICARAGUA, S.A
 TEXTILES VALIDOS INTL., S.A.
 ANNIC II, S.A
 China United International Corp. S.A
 GRACE FASHION NICARAGUA S.A
 SAE-A TECHNOTEX, S.A
 HANSAE INTERNACIONAL, S.A (MOD 2, 3, 5)
 EINS, S.A
 WELLS APPAREL DE NICARAGUA, S.A
 New Holland Apparel Nicaragua
 TEXNICA, S.A
 GILDAN ACTIVEWEAR SAN MARCOS II, S. A
 DASOLTEX, S.A
 HANSAE INTERNATIONAL S.A MODULO 1 (MASAYA)

ANNEX B: LIST OF PARTICIPATING BUYERS

To be added

ANNEX C: METHODOLOGY AND LIMITATIONS

Factory assessments

Better Work conducts factory assessments to monitor compliance with core International Labour Standards and the national labour law. Assessment reports highlight non-compliance findings, which are then used to help factories identify areas in need of improvement. Collecting and reporting these data over time help factories demonstrate their commitment to improving working conditions.

Better Work organizes reporting into eight clusters. The first four clusters comprise the core labour standards – Child Labour, Discrimination, Forced Labour, and Freedom of Association and Collective Bargaining. These standards protect the fundamental rights at work under the ILO’s 8 Core International Labour Conventions, and International Labour Standards are used as a baseline for compliance in these four clusters. The remaining clusters – Compensation, Contracts and Human Resources, Occupational Safety and Health, and Working Time – fall under Working Conditions. The compliance points for these areas incorporate differences in national legislation depending on the country of operation. Better Work establishes a benchmark based on international standards and good practices in areas where national laws do not cover or sufficiently address an issue regarding working conditions. The eight clusters are then divided into cluster points (CP), and each CP includes a number of questions, which may vary by country.

FIGURE 3: BETTER WORK ASSESSMENT CLUSTERS AND COMPLIANCE POINTS.

	COMPLIANCE CLUSTERS	COMPLIANCE POINTS
Core Labour Standards	1 Child Labour	Child Labourers
		Documentation and Protection of Young Workers
		Hazardous Work and Other Worst Forms
	2 Discrimination	Gender
		Other Grounds
		Race and Origin
	3 Forced Labour	Religion and Political Opinion
		Bonded Labour
		Coercion
	4 Freedom of Association and Collective Bargaining	Forced Labour and Overtime
Prison Labour		
Collective Bargaining		
Freedom to Associate		
Interference and Discrimination		
Working Conditions	5 Compensation	Strikes
		Union Operations
		Method of Payment
		Minimum Wages/Piece Rate Wages
		Overtime Wages
	6 Contracts and Human Resources	Paid Leave
		Social Security and Other Benefits
		Wage Information, Use and Deduction
7 Occupational Safety and Health	Contracting Procedures	
	Dialogue, Discipline & Disputes	
	Employment Contracts	
	Termination	
	Chemicals and Hazardous Substances	
	Emergency Preparedness	
	Health Services and First Aid	
	OSH Management Systems	
Welfare Facilities		
8 Working Time	Worker Accommodations	
	Worker Protection	
	Worker Environment	
		Leave
		Overtime
		Regular Hours

Calculating non-compliance

Better Work calculates non-compliance rates for each factory and reports them in individual factory reports. The non-compliance rate is reported for each CP, and a CP is reported as non-compliant if one or more of its questions show evidence of non-compliance. In annual reports, Better Work uses the average compliance rates across all participating factories within the reporting period. For instance, an average non-compliance rate of 100 percent under a question indicates that all participating factories had violations in that area.

LIMITATIONS

Limitations of better work assessment

Detailed factory assessment reports are based solely on what is observed, investigated and analyzed during assessment visits. Before the reports become official, factories are given five working days to provide feedback and clarifications, which in some cases impact the language in the final report. Certain issues remain difficult to assess and verify independently. For instance, sexual harassment is difficult to identify during a factory assessment visit. It is generally considered a sensitive issue and is likely to be underreported. The

low literacy level of a large percentage of workers can also affect the integrity of documentation related to workers' consent for overtime work, storing personal documents, disciplinary procedures and employment rights. To overcome such limitations to some extent, information provided by workers and management are crosschecked through representative interview samples and various documents maintained at the factory.

Limitations of calculating non-compliance

The binary 'yes or no' structure of the answers to compliance limits the ability of Better Work to numerically present the severity of non-compliance, and is not conducive to capturing the 'levels of non-compliance'. For example, a factory may significantly improve in a particular area but may still not qualify as compliant. While an aggregate and strict indicator, the non-compliance rate is useful for Better Work to compare data across countries and have a general idea of areas of non-compliance in the industry. It is often beyond the capacity of such numbers to fully capture the specific issues observed during factory assessments.

Accordingly, it is important to examine the Clusters and CPs in further details to create a more comprehensive understanding of the industry and the overall non-compliance rates.

END NOTES

- 1 Factories participating and the Better Work model are further discussed in the Annex D discussing Methodology and Limitations.
- 2 The results of the impact assessments are published in Better Work's multi-country study "Progress and Potential". <http://betterwork.org/dev/wp-content/uploads/2016/09/Tufts-University-Final-IA.pdf>

Specific findings on Better Work Nicaragua are summarized in the brief available here: http://betterwork.org/dev/wp-content/uploads/2016/09/BW-Progress-and-Potential_Web-final.pdf

- 3 A cycle begins an advisory visit and ends with the 2nd Progress Report.
- 4 For more information, see the results of the independent impact assessment of Better Work's supervisory skills training at <http://sst.betterwork.org/>
- 5 The Nicaraguan Department of Labour is entitled to provide special permissions to factories to work additional overtime exceeding the defined limits. The purpose of these exemptions is to guarantee work stability and to protect of investments in Nicaragua. The rationale for exemptions is to provide factories flexibility to achieve difficult lead times in order to retain buyers in the local supply chain. Labour inspectors must identify circumstances that fall under Articles 59 and 69 of the Nicaraguan labour code in order to justify an exemption. In general, exemption can be justified by a labour inspector if missing a lead time would endanger a contract, the industry or the common good of workers.





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