



BETTER WORK
Lesotho

Better Work Lesotho: Garment Industry 2nd Compliance Synthesis Report

Produced on 2 April 2013



International
Labour
Office



**International
Finance Corporation**
World Bank Group

Better Work Lesotho is supported by the
US Department of Labor

Copyright © International Labour Organization (ILO) and International Finance Corporation (IFC) (2013)
First published (2013)

Publications of the ILO enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to the ILO, acting on behalf of both organizations: ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The IFC and ILO welcome such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit www.ifro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Better Work Lesotho : garment industry 2nd compliance synthesis report / International Labour Office ; International Finance Corporation. - Geneva: ILO, 2013
1 v.

ISSN 2227-958X (web pdf)

International Labour Office; International Finance Corporation
clothing industry / textile industry / working conditions / workers rights / labour legislation / ILO Convention / international labour standards / comment / application / Lesotho

08.09.3

The designations employed in this, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the IFC or ILO concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the IFC or ILO of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the IFC or ILO, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Visit our website: www.ilo.org/publns

Copyright © International Labour Organization (ILO) and International Finance Corporation (IFC) (2013)
First published (2013)

Table of Contents

| | |
|---|----|
| Acknowledgements | 4 |
| Executive Summary | 5 |
| Section I: Introduction and Methodology | 7 |
| Introduction..... | 7 |
| Institutional Context..... | 8 |
| Better Work Methodology | 10 |
| Calculating Non-Compliance | 11 |
| Note on the factories represented in this report..... | 11 |
| Limitations in the assessment process..... | 11 |
| Section II: Findings..... | 13 |
| Average Non-Compliance Rates..... | 13 |
| Detailed Findings | 15 |
| 1. Core Labour Standards..... | 15 |
| 2. Working Conditions..... | 16 |
| Section III: Changes in Compliance..... | 21 |
| Conclusions and Next Steps | 24 |
| Annexes | 25 |
| Annex A: Factories Covered in this Report..... | 25 |
| Annex B: Buyers Participating in Better Work Lesotho..... | 25 |

List of Tables

| | |
|--|----|
| In Focus 1: Emergency Preparedness..... | 17 |
| In Focus 2: Health Services and First Aid..... | 18 |
| In Focus 3: Welfare Facilities | 18 |
| In Focus 4: Worker Protection..... | 19 |
| In Focus 5: Working Environment | 20 |

Acknowledgements

Better Work Lesotho is supported by the United States Department of Labor.

The Better Work global programme is currently supported by the following (in alphabetical order):

- Australian Government
- Levi Strauss Foundation
- Netherlands Ministry of Foreign Affairs
- State Secretariat for Economic Affairs, Switzerland (SECO)

This publication does not necessarily reflect the views or policies of the organisations or agencies listed above, nor does mention of trade names, commercial products, or organisations imply endorsement by them.

Executive Summary

Better Work Lesotho is a partnership program of the International Labour Organization (ILO) and the International Finance Corporation (IFC). It provides assessment, advisory and training services to Lesotho's garment industry with the aim to improve working conditions and promote competitiveness in global supply chains.

The first Compliance Synthesis Report was published in May 2012 and presented aggregated findings of 10 factories assessed between March 2011 and January 2012. This report covers 14 factories assessed by Better Work Lesotho between January and December 2012. Of the 14 factories, nine were assessed for a second time, and five had their first assessment. These factories employ a total of 20,379 workers, of which about 80% are women workers. On average, each factory employs approximately 1,500 workers.

Major findings resulting from the analysis of aggregated data in this report are as follows:

Assessed factories performed well with respect to international core labour standards:

Child Labour: There was no finding under Child Labour.

Discrimination: No findings were reported for Discrimination based on race and origin, religion and political opinion, gender or on the grounds of a worker's perceived or real HIV status.

Forced Labour: There was no finding under Forced Labour.

Freedom of Association and Collective Bargaining: Findings under this cluster were mostly reported for the Interference and Discrimination CP and affected workers in three factories. In one factory, unions were denied access to visit their members, and in another, workers were intimidated by disciplinary measures to prevent them from participating in a strike. The third factory failed to implement the provisions of a collective agreement it had in place with one union.

Assessed factories had noticeably more non-compliance findings under Working Conditions clusters regulated by national labour law:

Occupational Safety and Health (OSH): This remains the cluster with the highest non-compliance rate. Most findings were discovered under the following compliance points (CPs): Working Environment, Worker Protection, Health Services and First Aid, which all had a non-compliance rate of 100%. Significantly high non-compliance was also found for Emergency Preparedness (93%), Chemicals and Hazardous Substances (86%) and Welfare Facilities (86%). The program supports the industry in addressing these findings through more training courses on selected OSH topics, a new training to help establish functioning OSH management systems, advisory services and awareness raising.

Contracts and Human Resources: The majority of factories continue to be in non-compliance with Dialogue, Discipline and Disputes, with findings primarily related to verbal harassment of workers by supervisors. Lack of supervisory skills, communication barriers and misunderstandings due to cultural differences remain the main reasons behind these findings. The program is offering supervisory skills training in both Sesotho and Chinese to assist factories in reducing non-compliance in this regard. Another area where non-compliance findings have been frequent

relates to Employment Contracts. In 50% of assessed factories, workers did not understand the terms and conditions of their contracts, as they had not been given copies of their contracts.

Compensation: Findings under this cluster were mainly detected for factories not having a valid workers' compensation insurance policy and for keeping more than one accurate wage record (double books). Findings were also relatively frequent under the Overtime Wages CP, primarily due to irregularities in the payment of overtime for casual workers.

Working Time: 43% of assessed factories were out of compliance on issues under the Regular Hours CP, due to non-provision of one day off for casual workers, non-adherence to breaks after five hours of work and unreliable working-time record systems. In a smaller number of factories, non-compliances were recorded for not providing breastfeeding workers with one hour off per day and for excessive overtime.

Findings under the CPs for Contracts and Human Resources, Compensation and Working Time are being addressed through HR Management training and advisory services. Furthermore, the program continues to assist factories in setting up effective Performance Improvement Consultative Committees (PICCs) that play a key role in the development, implementation and monitoring of compliance improvement measures and in improving social dialogue in the workplace.

Compliance performance data included in this report for nine factories that had their second assessment show improvements in compliance under Discrimination based on the grounds of a person's perceived or real HIV status, union operations (unions allowed to access workers in the factory during non-working hours), payment of Minimum Wages, OSH Management systems and all CPs under Contracts and Human Resources, the latter indicating impact of the program's HR Management training launched in May 2012.

A decline in compliance performance was measured for the CPs that cover Collective Bargaining; Overtime Wages; Paid Leave; Social Security and Other Benefits; three areas under OSH (Chemicals and Hazardous Substances, Health Services and First Aid, Worker Accommodation); and Overtime.

Of the nine factories that had a second assessment, only three showed improvements in their total compliance rate.

Section I: Introduction and Methodology

Introduction

Better Work Lesotho is a partnership program of the International Labour Organization (ILO) and the International Finance Corporation (IFC). In order to strengthen the country's export position in global markets after the phasing out of the Multi-Fibre Arrangement in 2005, national stakeholders expressed their interest in a Better Work program and agreed during the program preparation phase to establish Lesotho as an ethical sourcing destination. Better Work Lesotho aims to accomplish this objective by improving compliance with ILO core labour standards and the Lesotho national labour law, and by promoting competitiveness in global supply chains.

The program is embedded in the ILO Decent Work Country Program for Lesotho (phase II), whose ultimate goal is to reduce poverty by expanding decent work opportunities in targeted export sectors. Better Work Lesotho was launched in 2010. It is financed by the United States Department of Labor (USDOL).

At the end of 2012, a total of 38 garment and 3 footwear factories employed approximately 40,000 workers¹, representing about 80% of all formal jobs in the manufacturing sector. Approximately 80–85% of jobs in the garment and footwear sector are held by women, and it is estimated that the HIV infection rate in the sector reaches 43%². According to latest available official data, Lesotho continues to face a high unemployment rate of 25.3%³.

Lesotho's garment industry continues to benefit from the preferential trade agreements under the African Growth and Opportunity Act (AGOA), which grant duty- and quota-free export of apparel products from qualifying sub-Saharan African countries into the US. Under AGOA, Lesotho's garment exports to the US grew in both value and volume terms until 2004. Since then, export volumes fell by 50% from 111,162 million m² equivalents in 2004⁴ to 55,174 million m² equivalents in 2012⁵. Also export values experienced a decline from USD 455.4 million in 2004 to USD 241.8 million in 2012⁶. Over the same period, the workforce employed in the garment industry decreased by 12,650—a decline of about 25%. In spite of this downward trend, Lesotho remains the leading sub-Saharan African garment exporter to the US under AGOA in value terms.

Garment factories are owned and managed predominantly by Taiwanese or South African companies. A high percentage of factory mid-level management and supervisors are foreign nationals, including Taiwanese, Chinese, South Africans and Mauritians, whereas floor-level workers are all Basotho nationals. There is no garment factory in the country owned and managed by Basotho nationals. Garment factories are located in the country's two major industrial areas: around the capital Maseru and around Maputsoe, a district town situated in the northern part of the country.

Better Work Lesotho continues to operate within an environment characterized by economic challenges for Lesotho's garment industry, mainly caused by strong competition from Asian garment-exporting nations. The extension of the AGOA third-country fabric provision (a trade preference that allows apparel manufacturers to use non-African produced fabric) until 2015 has alleviated some of

¹ Lesotho National Development Corporation (LNDC), January 2013.

² As per information of the Alliance of Lesotho Apparel to Fight AIDS (ALAF), March 2013

³ Lesotho Integrated Labour Force Survey, 2008 (p.102).

⁴ Lesotho Textile Exporters Association (LTEA), 2011

⁵ Data for January to October 2012; secondary source: LNDC, 2013 (primary source: US-Africa Trade Report, January 2013)

⁶ Data for January to October 2012; secondary source: LNDC, 2013 (primary source: US-Africa Trade Report, January 2013)

the pressure on the industry, which faced a decline in orders in the first half of 2012 due to uncertainty around the extension of this AGOA agreement. However, latest data by the Lesotho National Development Corporation show a substantial rise in employment of 12.6% for the garment sector in the last quarter of 2012, indicating an increase in orders after the renewal of the AGOA third-country fabric provision.

As of February 2013, 24 factories (or 58%) out of a total of 41 in the country had enrolled in the Better Work Lesotho program under a voluntary approach. They cover 70% of the country's workforce in footwear and garments. With the exception of four factories, they primarily export to the United States. A rising number of factories that in the past only exported to the US market now actively seek business with South African retailers, either directly or through their agents, to diversify their business operations and become less dependent on the US market. The vast majority of factories under South African ownership and management (14 out of 18 factories) continue to remain outside the program, which more or less limits the program's labour compliance reporting to factories exporting to the US market.

Prior to the start of the program national stakeholders committed themselves to implement the program industry-wide to enhance its effectiveness and build a credible reputation for socially responsible manufacturing throughout the garment industry. Given the slow pace of supplier subscriptions under a voluntary approach, which is delaying the industry-wide roll out of the program, the Government has decided to mandate participation in Better Work Lesotho. Based on announcements by the Government, it was anticipated that a legal provision for mandatory participation would come into effect in form of a gazette after the 2012 national elections held in May. As of now, the Government has not pursued any further steps in this respect, and a mandatory regulation is still pending.

This report provides an analysis of compliance assessments conducted in 14 factories between January and December 2012. It continues to illustrate assessment findings in Taiwanese-owned factories; only one out of these 14 factories is operating under South African ownership and management. Assessed factories cover 54% of the garment industry's workforce.

Institutional Context

Better Work Lesotho works closely with national program stakeholders and international buyers through different committees and forums.

At national level, the program is advised by a tripartite Project Advisory Committee (PAC). The Committee continues to meet on a quarterly basis to discuss progress and challenges in program implementation and key issues relating to labour compliance, industrial relations and the industry's competitiveness (where it is within the scope of the program). The Government is represented in the PAC through the Ministry of Labour and Employment (MoLE), the Ministry of Trade, Industry, Cooperatives and Marketing, and the Lesotho National Development Corporation. Employer representatives include the Lesotho Textile Exporters Association and the Association of Lesotho Employers and Business. Garment industry workers are represented by the five sectoral unions, including the Lesotho Clothing and Allied Workers' Union, the Factory Workers' Union, the National Union of Textile, the United Textile Employees and Lentsoe Le Sechaba (The Voice of Workers).

In consultation with PAC members, the program drafted a "zero tolerance" protocol, to be signed by the MoLE and Better Work Lesotho. In response to non-compliance findings in the first Compliance

Synthesis Report (May 2012), PAC members wished to include as zero-tolerance issues: verbal harassment, discrimination on the grounds of a worker's perceived or real HIV status, and occupational safety and health issues that pose an imminent risk to workers' health and lives (including severe fire safety issues), in addition to human rights violations relating to child and forced labour. The protocol has been submitted to the MoLE for its signature.

At factory level, the program has extended its engagement through Performance Improvement Consultative Committees (PICCs), established in 13 factories covered in this report. PICCs consist of an equal number of management and worker representatives (the latter comprising shop stewards from unions represented in the factory and a smaller number of non-organized workers). PICCs are tasked with the development, implementation and monitoring of factory improvement plans to address areas of non-compliance as identified in the factory assessments. By having a bipartite structure, PICCs also aim to improve social dialogue in the workplace and promote effective workplace cooperation. While overall the performance of PICCs still needs to be strengthened, in a number of factories they have been contributing effectively to the remediation of non-compliances, in particular with respect to selected OSH issues. Also, based on feedback from surveyed factory management, PICCs lead to improved communication between management and workers.

The annual Buyers' Forum held in Maseru in the month of October complements the consultation mechanisms the program has established with national stakeholders. The Forum provides a platform for buyers to discuss details of cores service delivery and meet with national stakeholders. In between the annual Forums, Better Work Lesotho communicates regularly with buyers and updates them on program as well as broader sectoral developments. So far only US brands are supporting the program, while South African retailers sourcing from Lesotho have not yet joined.

With respect to Labour Administration reforms, the MoLE is still in the process of finalizing a revision of the Lesotho Labour Code Order 1992 that was initially drafted in 2006. The draft bill suggests important amendments relating to, among others, non-discrimination, minimum wage setting, unfair dismissal, union rights and law enforcement. Furthermore, it includes substantive amendments in the area of occupational safety and health (OSH). In view of the continuing high non-compliance rates found under OSH, the delay in passing the amendment contributes to the persistence of non-compliances in this area. It is hoped that the bill will be finalized and approved by Cabinet as soon as possible.

Also, the current Labour Code (section 134) does not require an employer to pay maternity leave. Industry and service sectors, upon individual negotiation with sectoral unions, have had to agree on the number of weeks of paid maternity leave outside the Labour Code. The outcome of these negotiations is included in the Labour Code Wages (Amendment) Order, published annually in the form of a gazette to announce the new minimum wages. As per this Wages (Amendment) Order, an employee in textile, clothing and leather manufacturing is entitled to receive two weeks of paid maternity leave, whereas employees in other sectors (including construction, wholesale, retail, hospitality, funeral and cleaning services, transport, small business and domestic work) are entitled to receive twelve weeks of paid maternity leave.

In the course of finalizing the Labour Code revision or by other policy means, such as a Social Security Scheme that the MoLE is in the process to develop, the Ministry could consider promoting a decent level of paid maternity leave for all women workers covered under the Labour Code, independent of the sector they are working in.

Better Work Methodology

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

Better Work organizes reporting into eight areas, or clusters, of labour standards. Four of the clusters are based on fundamental rights at work regarding child labour, discrimination, forced labour, and freedom of association and collective bargaining. In 1998, member states, workers, and employer representatives at the International Labour Organization identified fundamental principles and rights at work regarding these four issues based on eight very widely ratified International Labour Conventions (29, 87, 98, 105, 100, 111, 138, and 182). These Conventions provide the baseline for compliance with the fundamental rights clusters across all Better Work country programs.

The four other clusters monitor compliance with standards primarily set by national law, so they vary from country to country. 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. These components are known as compliance points (CPs). Each CP contains specific questions that may vary from country to country. The detailed list of CPs within each cluster is indicated in the table below.

| | Compliance Clusters | | Compliance Points |
|-----------------------|---------------------|--|--|
| Core Labour Standards | 1 | Child Labour | 1. Child Labourers 2. 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. Dialogue, Discipline and Disputes |
| | 7 | Occupational Safety and Health | 28. OSH Management Systems 29. Chemicals and Hazardous Substances |

| | | | |
|--|---|--------------|---|
| | | | 30. Worker Protection 31. Working Environment 32. Health Services and First Aid 33. Welfare Facilities 34. Worker Accommodation 35. Emergency Preparedness |
| | 8 | Working Time | 36. Regular Hours 37. Overtime 38. Leave |

Calculating Non-Compliance

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

In public synthesis reports, Better Work calculates the 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 average non-compliance findings at the question level are also presented in Section II with the title of **In Focus Tables**. These tables, showing the number of factories found to be non-compliant to individual questions, allow the reader to fully appreciate the specific challenges in compliance identified in factory assessments.

Note on the factories represented in this report

Better Work compiles synthesis reports approximately every six months for each of its country programs. The synthesis report presents a snapshot of the non-compliance situation in the participating industry of the respective country. The rates presented in the synthesis report refer to participating industry averages. As factories are assessed once per year, in some cases the data included in the synthesis reports is older than six months.

This synthesis report presents the aggregated findings of 14 factory assessments, including five first and nine second assessments, conducted by Better Work Lesotho between January and December 2012.

Limitations in the assessment process

Assessments carried out by Better Work Lesotho are based on a comprehensive set of questions (250 in total) that cover core labour standards and national labour law requirements (as mentioned above). Each factory assessment report is based on the analysis of observations, document review and management and worker interviews carried out during the two assessment days. Factories are given five working days to review the report and comment on findings.

Worker interviews conducted during the assessment process are held onsite, either in a private room within the factory building or outside the building (yard, canteen area). As all workers are Basotho, the interviews can be held in the national language, Sesotho. No interpreter is required. Workers in the garment industry, in general, are open toward answering the assessment questions and are vocal in voicing grievances.

Nevertheless, worker focus group discussions conducted offsite for the program's impact assessment baseline in 2011 brought up issues that have not been uncovered in the assessment interviews. For example, sexual harassment is one of the most sensitive and most difficult issues to detect during factory assessments. It is often unreported due to fear of retaliation, power imbalance between victim and perpetrator, as well as cultural perceptions of stigma associated with it. However, during Better Work Lesotho's impact assessment focus groups, female workers recalled situations where they felt uncomfortable due to advances from a male supervisor, fearing that if they refused him, they would face repercussions. In addition, talking about discrimination on the ground of HIV/AIDS is a sensitive issue that workers may want to avoid, particularly where it requires the disclosure of the worker's own status or that of co-workers.

The program will provide specific training to the Enterprise Advisers on how to find sensitive issues during worker interviews (i.e. discrimination and sexual harassment). In June 2012, Enterprise Advisers participated in an advanced training on how to discover and investigate Freedom of Association-related non-compliances. A refresher training will be conducted in June 2013 and will also include sessions on discrimination.

Section II: Findings

Average Non-Compliance Rates

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

In the areas of Core Labour Standards:

Child Labour: No cases of child labour were detected.

Discrimination: There were no non-compliance findings relating to Discrimination based on race and origin, religion and political opinion, gender or a person's perceived or real HIV status.

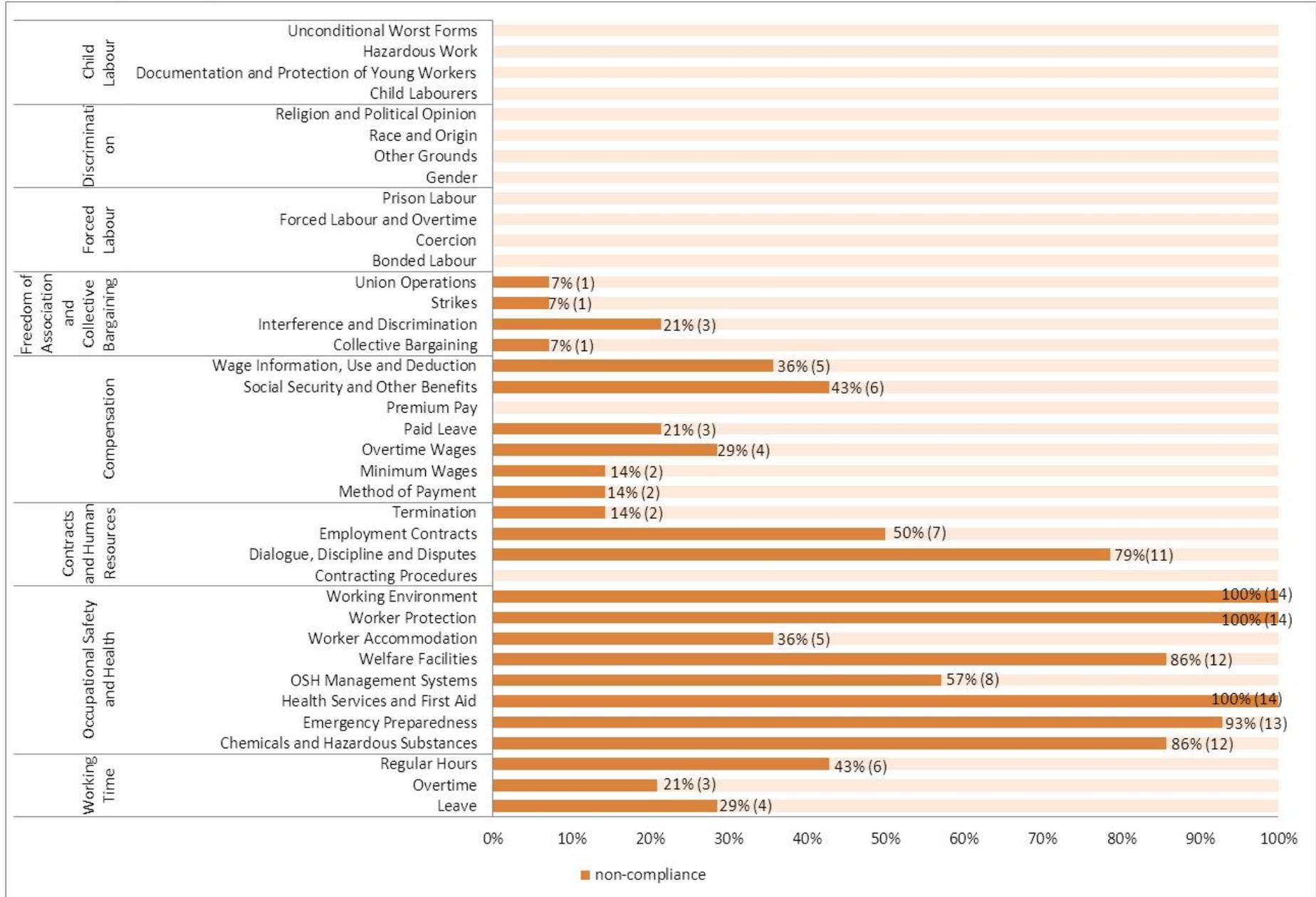
Forced Labour: No findings were uncovered with respect to coercion, bonded labour, forced labour and overtime or prison labour.

Freedom of Association: A small number of factories had non-compliance findings under this cluster. Cases of discrimination against union members were found in three factories. One factory was cited for non-compliances regarding Union Operations because of having denied unions' access to visit their members and another for intimidating workers to prevent them from participating in a strike. One factory had a finding concerning Collective Bargaining, as it failed to implement the provisions of a collective agreement in force.

In the areas of Working Conditions (national law):

For a description and analysis of findings under the four Working Conditions clusters (Compensation, Contracts and Human Resources, Occupational Safety and Health, Working Time) please see the chapter Detailed Findings.

Chart 1: Average non-compliance rates



Detailed Findings

This section describes the levels of non-compliance across participating factories for each sub-section (Compliance Point) within each of the eight categories of labour standards covered by the Better Work Lesotho assessments. Through the In Focus Tables, it presents detailed findings at the question level for a number of Compliance Points.

1. Core Labour Standards

a. Child Labour

Better Work Lesotho did not find any non-compliance findings in the Child Labour cluster.

In all assessed factories, document review indicated that workers were at least 18 when they were hired.

b. Discrimination

There were no Discrimination findings in the reporting period.

c. Forced Labour

There were no Forced Labour findings in the reporting period.

d. Freedom of Association and Collective Bargaining

Regarding Union Operations, in one factory it was found that workers were not allowed to organize collectively, be it in form of a union or a workers' committee. Also, union representatives did not have access to the workers in the workplace. Management did not respond to the union's request to meet with workers during non-working hours.

The 21% non-compliance rate in Interference and Discrimination is explained by: one factory in which a supervisor promised workers good treatment as an incentive for not joining a union or engaging in union activities; two factories where the employer punished workers for joining a union or engaging in union activities by demoting them; and two factories where management or supervisors verbally harassed shop stewards when they are following up on workers' grievances.

In one factory, the employer failed to implement the provisions of an agreement in force with one union that allows workers to work overtime to compensate for lost income on paydays where the factory closes at noon.

In terms of Strikes, in one factory the employer prevented workers from participating in strikes by threatening them with disciplinary action, without differentiating between legal and illegal strike action.

2. Working Conditions

e. Compensation

There are a number of non-compliance findings related to compensation issues. The highest non-compliance rate was under Social Security and Other Benefits (43%), followed by Wage Information, Use and Deduction (36%).

The main issue regarding social security is employers not having insurance to cover work-related injuries and illnesses, as they failed to renew the insurance policy on time. Five factories were non-compliant with this requirement. Also, in one factory, the employer did not provide transport for workers coming to work or returning home between 8pm and 5am.

Non-compliance in Wage Information is mainly due to five factories having wage records that did not show the full amount of overtime worked (double books).

Two factories did not pay minimum wages correctly, the reason being non-adjustment of workers' minimum wage after completion of their first 12 months with the same employer. The Overtime Wages CP has a 29% non-compliance rate due to four factories in which the employer did not pay permanent or casual workers the correct wages for all ordinary overtime hours worked (including overtime worked at night), for public holidays and for weekly rest days. In three factories respectively it was found that either sick leave or maternity leave or a one hour leave for breastfeeding mothers was not paid as per legal requirements.

Regarding Method of Payment, two factories did not pay wages on time: in one factory the security guard's payment was delayed, whereas another one failed to pay overtime wages in a timely manner.

f. Contracts and Human Resources

Within this cluster, the highest non-compliance rate is in the Dialogue, Discipline and Disputes CP (79% non-compliance rate). This is due to workers in 11 factories being verbally harassed by supervisors who use inappropriate, offending language in their communication with workers. Verbal harassment of workers by supervisors, whether intentional or because of communication barriers or cultural differences and misunderstandings (in case of migrant supervisors), continues to represent one of the major assessment findings identified for the garment industry in Lesotho.

The program has started to offer training on supervisory skills in both Sesotho/English and Chinese; however, as remediation of this issue involves behavior change, so far only a few factories were able to address it successfully through repeated training and follow-up measures, including disciplinary action.

Other findings under this CP relate to the handling of grievances and disputes. Two factories did not have grievance handling procedures in place, and in one factory the resolution of grievances was not done in compliance with legal requirements. Also, disciplinary measures applied in one factory, were not in compliance with the Code of Good Practice.

In terms of Employment Contracts, workers in seven factories did not understand the terms and conditions of their employment and were not given photocopies of their contracts.

Non-compliances regarding Termination were found in two factories. In one factory, workers were terminated for invalid reasons: after they had been terminated, they brought their case to the Directorate of Dispute Prevention and Resolution, which decided that they should be reinstated. In another factory, workers were not given the opportunity to defend themselves prior to being terminated due to performance issues.

g. Occupational Safety and Health

Occupational Safety and Health has the highest concentration of non-compliance findings. In six of the eight compliance points under this cluster, the average non-compliance rate is exceeding 80%. The following In Focus tables illustrate the frequency of non-compliances under selected compliance points.

The average non-compliance rate under the CP for Chemicals and Hazardous Substances is 86%. Non-compliances were most frequently caused by missing material safety data sheets and no soap in toilets (8 factories), as well as unsafe storage of chemicals (missing or inadequate secondary containments) and no record keeping of chemicals and hazardous substances (seven factories). Five factories had not labeled their chemicals properly (missing labels or translations), and two factories respectively had not taken any action to limit workers’ exposure to chemical substances and train workers in handling chemicals.

In Focus 1: Emergency Preparedness

| Question | Number of factories out of compliance |
|--|--|
| Are emergency exits and escape routes clearly marked and posted in the workplace? | 12 |
| Are the emergency exits accessible, unobstructed and unlocked during working hours, including overtime? | 10 |
| Are there enough emergency exits? | 3 |
| Does the employer conduct periodic emergency drills? | 1 |
| Does the workplace have a fire alarm system? | 1 |
| Does the workplace have adequate fire-fighting equipment? | 11 |
| Has the employer trained an appropriate number of workers to use the fire-fighting equipment? | 7 |

A high average non-compliance rate, amounting to 93%, was also found for the Emergency Preparedness CP. Twelve factories did not comply with the requirement to keep exits and escape routes clear and post relevant signage in the workplace. Inadequate fire-fighting equipment, mostly due to lack of fire extinguishers or inspection irregularities, led to non-compliances in 11 factories. In ten of the assessed factories emergency exits were either obstructed and/or locked.

The number of firefighters was too small in proportion to the total workforce in seven factories. While Better Work recommends 10%, in many factories it only reaches 2–3% of the entire workforce. Three factories did not have enough emergency exits, and failure to conduct regular emergency drills and to have a fire alarm system was an issue in one factory, respectively.

In Focus 2: Health Services and First Aid

| Question | Number of factories out of compliance |
|---|--|
| Does the employer inform and educate workers on HIV/AIDS? | 1 |
| Does the employer provide for pre-assignment and annual medical checks for workers who handle hazardous chemicals? | 7 |
| Has the employer ensured that there are a sufficient number of readily accessible first aid boxes/supplies in the workplace? | 9 |
| Has the employer provided first-aid training for workers? | 7 |

All 14 factories covered in this report had at least one or more non-compliances under this CP. Most findings were reported for not having a sufficient number of accessible first aid boxes/supplies, an issue identified in nine factories. Seven of the assessed factories did not send workers handling chemicals to pre-assignment and annual medical checks. Another seven did not have an adequate number of trained first-aid providers. In only one factory it was found that the employer did not provide HIV/AIDS awareness training. Better Work Lesotho brought this factory into contact with the Alliance of Lesotho Apparel to Fight AIDS (ALAFA). Since November 2012, it is registered with ALAFA and benefits from its services, including training.

Eight factories are in non-compliance with the OSH Management Systems CP. Most non-compliance findings were given for factories not having a Safety and Health Officer, especially one who is registered with the Department of Labour. This was an issue found in seven of the assessed factories. In order to qualify for registration and pass a test which is part of the registration process, a candidate needs to fulfill numerous skills and training requirements and demonstrate sufficient practical work experience. Lack of training opportunities in Lesotho, recognized by the Department of Labour, as well as the industry not being fully familiar yet with qualification requirements, contribute to the fact that the number of registered safety and health personnel in Lesotho's garment industry is still low.

Functioning OSH Committees and OSH Policies were missing in five factories respectively. Inspections of the workplace were not carried out in three factories. Also, three factories did not record work-related accidents and diseases.

In Focus 3: Welfare Facilities

| Question | Number of factories out of compliance |
|---|--|
| Does the workplace have adequate accessible toilets? | 6 |
| Does the workplace have adequate hand washing facilities and adequate soap? | 8 |
| Does the employer provide workers enough free safe drinking water? | 0 |
| Does the employer provide a place for workers to store clothing that they do not wear during work? | 6 |
| Does the workplace have an adequate eating area? | 4 |
| Is the workplace clean and tidy? | 8 |

The average non-compliance rate under this CP was 86%. Eight factories did not comply with hygiene requirements; they did not provide soap in the toilets because of the likelihood that it gets stolen. Factories seek to identify solutions to this problem through discussion in the PICCs. In another eight factories, the workplace was not clean and tidy.

In six factories, there was no adequate access to toilets due to an insufficient number of toilets, lack of maintenance or not enough pass cards per line. Also six factories did not provide workers with storage space for their clothes that they do not wear during work. In four factories, the eating area was found to be inadequate, mainly because of lack of space and opportunities for workers to sit while having lunch.

Under the Worker Accommodation⁷ CP, there are four factories where the employer did not adequately prepare for emergencies in the accommodation. Identified issues included no marking of emergency exits, no emergency lighting system, and no coverage of dormitories in emergency drills. One non-compliance finding related to the accommodation not being sufficiently protected against fire as fire extinguishers were past their servicing date.

In Focus 4: Worker Protection

| Question | Number of factories out of compliance |
|--|--|
| Are all vessels under pressure properly maintained and operated by a competent person? | 3 |
| Are appropriate safety warnings posted in the workplace? | 5 |
| Are cranes and other lifting machines of good construction and well maintained? | 0 |
| Are electrical wires, switches and plugs properly installed, grounded, and maintained? | 6 |
| Are goods stacked in a manner that ensures their stability and prevents any fall or collapse? | 6 |
| Are materials, tools, switches, and controls within easy reach of workers? | |
| Are proper guards installed and maintained on all dangerous moving parts of machines and equipment? | 9 |
| Are standing workers properly accommodated? | 13 |
| Are there sufficient measures in place to avoid heavy lifting by workers? | 4 |
| Are workers effectively trained and encouraged to use the personal protective equipment that is provided? | 7 |
| Are workers effectively trained to use machines and equipment safely? | 6 |
| Are workers punished if they remove themselves from work situations that they believe present an imminent and serious danger to life or health? | 0 |
| Do workers have suitable chairs? | 1 |
| Does the employer provide workers with all necessary personal protective clothing and equipment? | 13 |

Worker Protection has a 100% non-compliance rate, with all factories in the sample having at least one non-compliance finding in this area. Non-compliances were highest for not providing workers with standing mats and with necessary personal protective equipment and clothing (PPE/C), found in 13 factories, respectively. In nine factories the installation and maintenance of machine guards was

⁷ Dormitories in Lesotho are for the factories' overseas staff, including top and mid-level management and supervisors. Basotho garment workers either return to their villages in the evening or stay in a cheap, rented room near the factory. The dormitories, mostly rows of one-room flats attached to each other, are located adjacent to the production areas; some factories have them outside their premises. The Worker Accommodation CP only looks at dormitories on the factory premises.

unsafe, and in seven factories covered in this report, workers were not effectively trained and encouraged to use PPE. Electrical installations (including wires, plugs and switches) posed safety risks to workers in six factories, and in just under half of the factories, workers were not effectively trained to operate machines safely. Also, in six factories, it was found that goods were stacked in an unsafe manner. Five factories did not comply with the requirement to have adequate safety signs posted in the workplace.

In a smaller number of factories, non-compliances were caused by lack of measures to avoid heavy lifting by workers (for instance, no forklifts), not having a qualified boiler operator in place and no provision of adequate chairs for workers.

In Focus 5: Working Environment

| Question | Number of factories out of compliance |
|--|--|
| Is the temperature in the workplace acceptable? | 13 |
| Is the workplace adequately ventilated? | 8 |
| Are noise levels acceptable? | 2 |
| Is the workplace overcrowded? | 1 |
| Are all passage ways free from obstruction and floor openings fenced off and covered? | 11 |
| Is the workplace adequately lit? | 3 |

The Working Environment CP also had a non-compliance rate of 100%. Findings were most frequent for workplace temperature issues (too hot in summer, too cold during the winter), reported in 13 factories. Construction material used in some factories, such as walls and roofs made from aluminum, have no insulation capacity and contribute to the build-up of heat in the workplace. In eight factories, the workplace was not well ventilated, also affecting workers’ wellbeing particularly during the summer months. Obstruction of passageways and non-secured floor openings (such as uncovered drains) were found in 11 factories. Inadequate lighting, excessively high noise levels and overcrowding of the workplace were less common, found in only three, two and one factories, respectively.

h. Working Time

The non-compliance findings in the Leave CP refer to four factories in which a one hour breastfeeding break was not provided.

In the Overtime CP, there are three findings of non-compliance due to overtime exceeding the allowed 11 hours per week.

In terms of Regular Hours, three factories were non-compliant with having working-time records that accurately reflect hours actually worked, due to technical problems of their clocking system or omitting hours worked on Sundays. In one factory, the employer did not provide a one hour break after five hours of work. In three factories, the employer failed to provide one day off per week for casual workers or security guards.

Section III: Changes in Compliance

This section concerns the nine factories that have been assessed twice by Better Work Lesotho. Chart 2 presents the changes in compliance from the first to the second assessment. 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. A 0% compliance effort either means that under the respective compliance point no non-compliances were identified at all or that compliance performance remained unchanged.

It is important to note that the data may not fully capture all improvements made at a factory as a finding would still be non-compliant, unless all issues identified under this finding (for instance lack of PPE identified for different departments) have been addressed.

Improved performance was observed under Discrimination in Other Grounds relating to a person's perceived or real HIV status. Findings under this CP did not reappear in the assessments done for the nine factories covered under this section (nor were they identified for the five factories that had their first assessment).

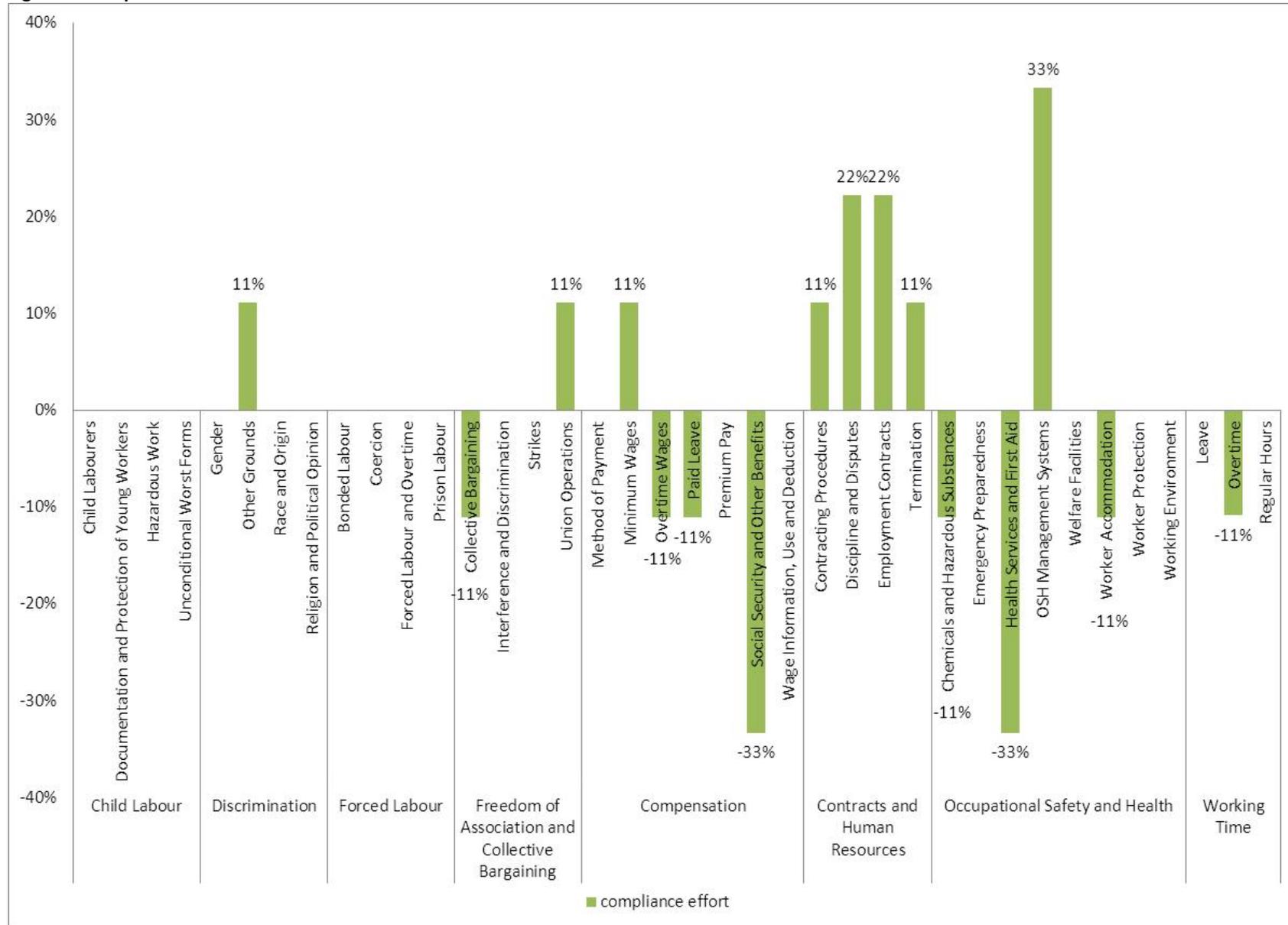
Also, all CPs under the Contracts and Human Resources cluster show an increase in the compliance effort, indicating that some factories had been able to successfully address verbal harassment of workers by supervisors and issues relating to workers' contracts, as well as contracting and termination procedures. This positive development needs to be seen in context with the program's launch of Supervisory Skills (from October 2011) and HR Management Training (from May 2012).

Other positive compliance efforts were found for Minimum Wages payment and union operations (one factory that denied unions' access to their members during non-working hours stopped this practice).

A decline in the compliance effort was recorded under Collective Bargaining as well as the CPs for Overtime Wages, Paid Leave, and Social Security and Other Benefits under the Compensation cluster. There was an increase in non-compliance findings particularly due to expired workers' compensation insurance policies. The compliance performance also fell for the Overtime CP, as the number of factories that exceeded the weekly overtime limit increased.

Under the OSH cluster, only the OSH Management Systems CP showed a positive compliance effort. This was due to better functioning OSH committees, improved recording of workplace-related accidents, regular bi-monthly inspections and having a written OSH policy in place. However, the performance under Chemicals and Hazardous Substances, Health Services and First Aid, and Worker Accommodation declined. Factories' performance under the other CPs (Emergency Preparedness, Welfare Facilities, Worker Protection and Working Environment) did not change—non-compliance rates remained as high as before.

Figure 1: Compliance Effort



Conclusions and Next Steps

This second public synthesis report covers about 37% of garment factories in Lesotho. Of the 14 factories assessed, nine were assessed for a second time, and five had their first assessment. In the absence of an industry-wide participation mechanism, the program puts emphasis on promoting its core services toward factories and buyers that have not yet subscribed to Better Work Lesotho. It remains the overall goal to implement the program country-wide in all garment and footwear industries.

By looking at the average non-compliance rates and comparing them with those of the first Public Synthesis Report from May 2012, the following emerge as most common non-compliance issues in Lesotho's garment industry: 1) verbal harassment of workers by supervisors, detected in about 80% of factories covered in the report; 2) violations of occupational safety and health requirements, leading to high non-compliance rates of 86% (two CPs), 93% (one CP) and 100% (three CPs) under this cluster, 3) non-compliance rates of 40–50% under selected CPs of the Compensation, Human Resources and Contracts, and the Working Time clusters.

The program is addressing these issues through various training products, including Supervisory Skills (offered in both Sesotho and Chinese), HR Management and Occupational Safety and Health (also taught in Chinese).

To accelerate improvement processes on OSH and complement its basic two-day OSH training, the program has started to offer courses with a focus on selected OSH topics, such as on Risk Assessment, Good Housekeeping or Emergency Preparedness. Another new training course in the Better Work Lesotho portfolio is a basic training on management systems, given that many non-compliances, not only under OSH but also other areas, persist due to the absence of proper OSH or HR management systems.

The program will continue to follow up with the MoLE on the status of the Labour Code Amendment Bill, which, once passed, would contribute to greater adherence to OSH requirements as employers' responsibilities would be outlined more clearly. Furthermore, the program will follow up with the Ministry on the signing of the "zero tolerance" protocol. It is anticipated that when the protocol comes into effect, it will contribute to a decline of verbal harassment cases, prevent new non-compliances for discrimination on the grounds of HIV/AIDS and also avert serious OSH violations.

In addition, the program will provide more training to PICC members to increase their knowledge of workplace cooperation, problem-solving and the remediation of non-compliances, in order to render the work of the PICCs more effective.

Annexes

Annex A: Factories Covered in this Report

C&Y GARMENTS
CGM INDUSTRIAL (PTY) LTD
Eclat Evergood Textiles (Pty) Ltd
Ever Unison Garments Lesotho (Pty)Ltd
Global Garments (Pty) Ltd
Hippo Knitting (Pty) Ltd
Jonsson Manufacturing (Pty) Ltd
Kopano Textiles (Pty) Ltd
Lesotho Precious Garments
Mauri Garments (Pty) Ltd
NIEN HSING TEXTILE INTERNATIONAL
Presitex Enterprises (Pty) Ltd
SHINNING CENTURY LIMITED
TZICC Clothing Manufacturers

Annex B: Buyers Participating in Better Work Lesotho

The Gap Inc.
Levis Strauss & Co.
Walmart
Jones Apparel
The Children's Place
Philipp van Heusen
SEARS