

# **Better Work Vietnam: Garment Industry 6th Compliance Synthesis Report**

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# Executive Summary

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

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

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

Better Work Vietnam released its first public synthesis report in August 2010, second synthesis report in February 2011, third public report in September 2011, fourth report in March 2012 and fifth report in October 2012. This sixth synthesis report provides an overview of the working conditions of 132 factories over the period February 2012 – January 2013. Fifty seven of these factories were also included in the fifth synthesis report..

Assessment results from factories covered in this report are largely consistent with previous baseline findings. A few key points include the following:

- As stated in all previous Better Work Vietnam synthesis reports, the area with the greatest number of non-compliant issues is Occupational Health and Safety. Findings are significant across all categories in this section, including emergency preparedness, chemical handling and labeling, health services and first aid, OSH management, worker protection, and working environment. Resolving some of these issues requires significant capital investments, but most can be addressed through development of comprehensive OSH management systems and regular attention to implementation, training, and communication.
- Excessive overtime continues to be an area of non-compliance across almost all Better Work Vietnam factories. While some factories have been able to come into compliance with daily or weekly limits, 93% are out of compliance with annual limits. The causes of this overtime clearly have many causes, due to both factory practices as well as other pressures coming from actors along the supply chain. The new labor law that will come into effect 1 May 2013 will not alter the annual limits.
- In the area of Core Labor Standards, this report marks a change in BWV policy regarding how to categorize and report on issues related to Freedom of Association and Collective Bargaining. As of this report, non-compliance regarding the right of workers to form or join a union of their choice and the ability of unions to form or join a federation of their choice will be reported only at the national level rather than the enterprise level. At the same time, BWV will be increasing its attention to questions related to Collective Bargaining, putting greater emphasis on understanding the negotiation, decision making, and communication processes behind collective bargaining agreements. As such, future reports will have more detailed information on collective bargaining indicators.

Section III includes information pertaining to the factories that have received two or more assessment reports. This section shows changes in compliance between one assessment visit and

the next. In looking at “Chart 2: Compliance Effort,” it is clear that the number of findings in certain categories have gone down, while in others, findings may actually have increased, showing a negative improvement on the chart. There are a number of factors which may help to understand and explain the changes in this section.

- In some cases, the level of compliance in a factory may have improved or declined. Improvements are most often the result of greater commitment on the part of the factory to address working conditions, the impact of the factory-level worker management Performance Improvement Consultative Committee (PICC) and the higher levels of worker participation that come with it, or greater pressure and/or collaboration from the factory’s buyers to make change. A worsening of conditions could be due to a decline in the factory’s business, leading them to de-prioritize working conditions, change in management, or failure to adequately sustain changes over time.
- Some of the reported changes are due to adaptations in the BWV compliance questions, placement of the questions, reporting guidelines, or additional staff training. There are some issues where the program has tightened its standards, or where staff have become more adept at identifying problems. As such, this may affect the number of findings (for specifics on where this may be the case, see details in Section III).
- Now in its fourth year of operations, BWV is working with factories who may not be as eager to make change as those who initially joined the program. As such, BWV’s ability to bring about greater levels of compliance is significantly more challenging.
- With factories that have been in the program for a number of years, the program may have been able to make “quick fixes” at the onset, but over time, have more difficulty in addressing more systemic or costly changes. This may also show up as slower change during the past year.

# Section I: Introduction and Methodology

## Introduction

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

The initial focus of the program is the apparel industry in Ho Chi Minh City and surrounding provinces. The garment sector is among the top two largest export earners for Vietnam. In 2012, total export earnings derived from the textile and garment industry reached US\$17.2 billion, up 8.5% compared to 2011, making Vietnam one of the largest garment and textile suppliers in the world. The sector is also the largest formal employer in Vietnam, providing jobs for more than 2 million people. Most of the workers are young women migrating from rural areas, who in turn support a number of extended family members through remittances.

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

As part of its mandate of sharing information with all program stakeholders, and encouraging continuous improvement, Better Work Vietnam produces two public synthesis reports per year aggregating information on the performance of all participating factories in the reporting period.

This sixth synthesis report provides an overview of the working conditions of 132 factories over the period February 2012 – January 2013. Fifty-seven of these factories were included in the fifth synthesis report published in October 2012. Of these factories, 87 have been assessed more than once by Better Work Vietnam. Section III includes information pertaining only to these factories, showing the changes in compliance observed between the previous and the most recent assessment visit.

The factories included in this report employ a total of 155,902 workers, of which 83% are women workers. In average, each factory employs approximately 1,200 workers.

## Institutional Context

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The recent comprehensive reforms of both the Trade Union Law and the Labor Code (entering into force in January and May 2013 respectively) have made progresses by regulating stronger protection for workers' rights, in particular fundamental rights such as non-discrimination and equality, prohibition of forced labour and child labour, as well as the right to organize and collective bargaining. It also provides for a better enabling legal environment for the labour market actors, in particular workers and employers and their organizations, to negotiate and determine their own terms and conditions of employment. However, Vietnam now faces the challenge of how to bring the political commitments to life by writing guidance decrees and circulars to focus on implementation and enforcement.

Better Work Vietnam will begin assessing and advising all companies against the new Labor Code as of May 2013 and will be creating a revised labor law guide and labor law training courses to enable companies to understand and come into compliance with the new legal regulations.

In this context, over the last two years, the partnership between Better Work Vietnam and the ILO's Industrial Relations Project have resulted in a number of achievements in further promotion of social dialogue and strengthening of the capacity of the trade unions. This partnership has helped Better Work Vietnam to feed its factory-level pilot experiences into policy discussions that helped shape reforms of the labor law and make them more compliant with international labor standards and good practices around social dialogue in particular.

In the meantime, Vietnam has approved a five-year roadmap for ratification of ILO Conventions, notably Convention no. 95 (protection of wages), Convention no. 98 (right to organize and collective bargaining), Convention no. 105 (forced labour), Convention no. 159 (vocational rehabilitation and employment for disabled persons) and Convention no. 187 (promotional framework for occupational safety and health).

## Better Work Methodology

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

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

Vietnam has ratified 19 Conventions (18 in force), including five core Conventions (C.29, C.100, C.111, C.138 and C. 182). It has recently ratified Governance Conventions, C.144 on tripartite consultations, C.122 on employment policy. Two other Conventions (C.184 on OSH in agriculture and C.159 on vocational rehabilitation and employment (disabled persons)) have been reviewed for possible ratifications in a near future.



**Working Conditions:** The four other clusters assess conditions at work, including compensation, contracts and human resources, occupational safety and health, and working time. The compliance points covered in these clusters are largely consistent across countries, however each compliance point contains specific questions that may vary from country to country due to differences in national legislation. In countries where national law either fails to address or lacks clarity around a relevant issue regarding conditions at work, Better Work establishes a benchmark based on international standards and good practices.

Better Work organizes reporting into eight areas, or clusters, of labour standards. Four of the clusters cover fundamental rights at work and four cover basic conditions at work. Each of the eight clusters is divided into its key components, known as “compliance points.” Each of these compliance points contains specific questions that may vary from country to country. The tool used to assess compliance is endorsed by the Project Advisory Committee. The detailed list of compliance points appears in the table below.

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

## Calculating Non-Compliance

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

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

While it is a strict indicator, the non-compliance rate is useful for Better Work to aggregate and compare data across countries. However, this number is not sufficient to fully describe the specific issues that enterprise advisors have observed during their assessment. For this reason, tables presenting non-compliance findings at the question level are also presented in Section II with the title of **In Focus Tables**. These tables allow the reader to fully appreciate the specific challenges in compliance identified in factory assessments, highlighting the number of factories found to be non-compliant to each specific question.

## **Note on the factories represented in this report**

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

This sixth synthesis report provides an overview of the working conditions of 132 factories over the period February 2012 – January 2013. Fifty-seven of these factories were included in the fifth synthesis report published in October 2012.

Of these factories, 87 have been assessed more than once by Better Work Vietnam. Section III includes information pertaining only to these factories, showing the changes in compliance observed between the previous and the most recent assessment visit.

## **Limitations in the Assessment Process**

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

Some issues are also difficult to assess and report on at the factory level. In particular, assessing compliance with freedom of association in Vietnam presents many challenges, especially given that it is not fully protected under national law. According to Vietnamese law, there is only one legal trade union, the Vietnam General Confederation of Labor (VGCL).

As such, every factory will be out of compliance with related questions on freedom of association. Given this, starting in May 2013, non-compliance regarding the right of workers to join a union of their choice and the ability of unions to join a federation of their choice will be reported only at the national level rather than the enterprise level. The Union Operations compliance point has accordingly been divided into 2 separate compliance points: A new Freedom to Associate compliance point that includes the two questions relating to freedom to form and join unions and

federations, as well as the question regarding whether workers are required to join a union (which is still assessed at the factory level).

Better Work Vietnam continues to monitor other aspects of union operations, including access to factories by union officials, and provision of facilities to unions as required, as well as issues relating to interference in union affairs, anti-union discrimination, collective bargaining, and strikes at the enterprise level. It is difficult to gauge the impact of the legal constraints on freedom of association on these other issues.

## Section II: Findings

### Average Non-Compliance Rates

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

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

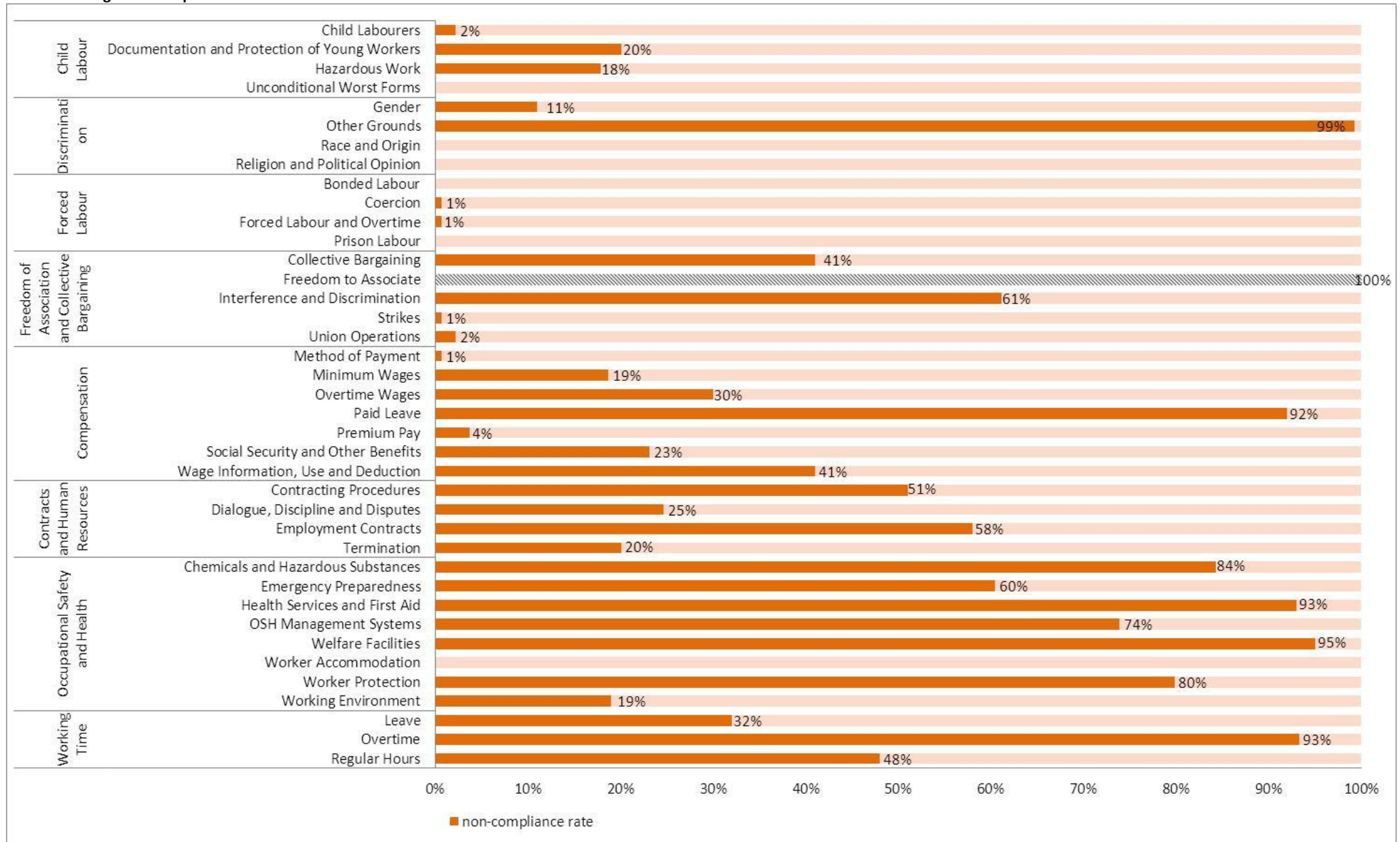
- **Child Labour:** There were three instances of workers found to be under the age of 15 during the reporting period, one of which was also included in the last report. All three of these workers were 14 years old at the time of the assessment. In addition, there were 22 factories who did not have a reliable system in place to verify workers' age before hiring, 23 factories who didn't keep a record of workers under 18 years old, and 23 factories who did not ensure that workers under 18 did not work more than 7 hours a day or 42 hours a week (including overtime).
- **Discrimination:** Similar to findings in previous Better Work Vietnam synthesis reports, Better Work assessments found that nearly all participating factories failed to hire the required number of workers with disabilities. A much smaller percentage (11%) refer to applicants' gender in recruitment materials or in making hiring decisions.
- **Forced Labor:** There were two findings related to forced labor in this report. In one instance, workers noted that they felt forced to work overtime and had deductions from their salary if they refused. In another factory, assessors found that the management was holding the ID cards of temporary workers.
- **Freedom of Association and Collective Bargaining:** A total of 30 factories did not consult with their union where legally required and 31 factories did not inform workers about the outcomes of collective bargaining agreements. In addition, assessors found a 61% non-compliance rate in management interference and discrimination in union activities (note this higher figure as compared to previous reports is due to a change in Better Work definitions around interference, not because of a widespread change in practice). Non-compliance regarding the right of workers to join a union of their choice and the ability of unions to join a federation of their choice are reported only at the national level (100%) rather than the enterprise level starting with this report.

#### In the areas of Working Conditions:

- **Compensation:** The largest area of non-compliance in this area is failure to pay workers for 30-minute break during their menstruation and failure to pay other leave on time. In the area of wages, 19% of factories did not pay at least the applicable minimum wage for ordinary hours of work and 30% did not pay proper overtime wages. Finally, 23% of factories failed to properly pay social security and other benefits, with a total of 29 failing to pay the legally required employer contribution to social insurance funds and 27 factories failing to forward employee contributions for social insurance funds to the social insurance authority. In addition, 54 factories had multiple payroll records.
- **Contracts and Human Resources:** A total of 55 factories failed to have contracts that comply with the labor law, collective agreement and work rules and 53 factories failed to comply with limits on the period of employment for probationary workers. In addition, there are a number of findings in the area of discipline and disputes, which is most often due to failure of factories to form a Labor Conciliation Council. There were two factories where workers reported to be bullied or harassed. A total of 18 factories were also cited for not compensating workers for unused paid annual leave when they resigned or were terminated.

- **Occupational Health and Safety:** There are high levels of non-compliance in this area, including in Chemicals and Hazardous Substances, Emergency Preparedness, Health Services and First Aid, OSH Management Systems, Welfare Facilities and Worker Protection. Some factories have shown to improve in their OSH compliance levels and then at times, to backslide for lack of ongoing attention.
- **Working Time:** There is a 93% non-compliance rate in the area of overtime hours. In addition, 79 factories were found to not ensure that workers have at least 4 rest days per month when weekly rest is not possible.

**Chart 1: Average non-compliance rate**



\* Non-compliance regarding the right of workers to form or join a union of their choice and the ability of unions to form or join a federation of their choice are reported only at the national level rather than the enterprise level starting with this report. As such, the “Freedom to Associate” bar in the chart above is a shaded grey color as it is not a reflection of factory reporting.

## Detailed Findings

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

### 1. Core Labour Standards

#### Child Labour

There were three instances of workers under the age of 15 identified during the reporting period. One case was already reported in the fifth Synthesis Report in October 2012.

In one of the new cases, a worker was identified 10 days before her 15<sup>th</sup> birthday. The worker was using false identification. Assessors noted the weakness of the factory's age verification system for all workers at this factory. In the second new case, the factory employed a temporary worker who was 14 years of age. This factory also had weak age verification systems and a failure to keep records of workers who are younger than 18 years old as required by law.

According to the normal procedure mentioned above, Better Work Vietnam alerted the Ministry of Labor, Invalids and Social Affairs (MoLISA) and international buyers who had subscribed to reports for the factory and launched an intensified advisory process to address the child labour issues in the factory (paid for by the factory). These included training on age verification systems, how to manage young workers, contract and working hours issues, and other related topics. In the case of the factory where the 14 year old was identified, the factory also signed an agreement on provisions for the worker in which they would pay schooling and salary until the worker turned 15 years old, at which time they would offer her a new position at the factory. Better Work Vietnam put the buyer in touch with a local organization with social workers and links to local education authorities to take forward the work with the girl outside of the factory. However the buyer and factory opted to monitor the work themselves. BetterWork was able to verify that as of April 2013 the girl had received wages until she turns 15 (in advance) and had completed 2 months at a vocational training centre (funded by her family at their own insistence).

In addition, there is an average of 20% non-compliance rate for Documentation and Protection of Young Workers. This point is explored in further detail below:

#### *In Focus 1: Documentation and Protection of Young Workers*

<i>Questions</i>	<i>Number of factories out of compliance:</i>
<b>Does the employer have a reliable system in place to verify the age of workers prior to hiring?</b>	22
<b>Does the employer keep a record of workers under 18 years of age?</b>	23

In addition, the Child Labour Hazardous Work section has a 18% average non-compliance rate as shown in the In Focus table below.

#### *In Focus 2: Hazardous Work*

<i>Questions</i>	<i>Number of factories out of compliance:</i>
<b>Are any workers who are under age 18 doing work that is</b>	3

<b>hazardous by nature?</b>	
<b>Do workers who are under age 18 work at night?</b>	5
<b>Do workers who are under age 18 work more than 7 hours a day or 42 hours a week (including overtime)?</b>	23

## Discrimination

The two areas found in non-compliance in discrimination are Other Grounds (99% non-compliance) and Gender (11%).

Non-compliance to Other Grounds of discrimination refers to non-compliance to the legal requirements regarding the hiring of disabled workers or contributing to the fund for people with disabilities. Out of a total of 132 factories, 131 are in non-compliance in this area.

The average non-compliance rate in the Gender compliance point is 11%. Additional details are provided in the table below:

<b>Question</b>	<b>Number of factories out of compliance</b>
<b>Do job announcements refer to the applicants gender?</b>	6
<b>Is an applicant's gender a factor in hiring decisions?</b>	5
<b>Does the employer require pregnancy tests or use of contraceptives as a condition of employment?</b>	2
<b>Does the employer change the employment status, position, wages, benefits or seniority of workers during maternity leave?</b>	1
<b>Are periods of maternity leave included in a worker's period of continuous service?</b>	1
<b>Does the employer terminate workers who are pregnant, on maternity leave, getting married, or breast-feeding a child under 12 months of age or force them to resign?</b>	1

## Forced Labour

There is one finding under Forced Labour and Overtime, referring to one factory in which the employer forced workers to work more than 4 hours overtime per day or 300 hours overtime per year by threatening dismissal or other action that would reduce their future income. This case was already reported in the previous report.

There is one finding under Coercion, related to one employer denying workers access to their personal documents. In this case, assessors noted that the factory held the IDs of temporary workers, though the management stated they only held them for their first day of employment.

## Freedom of Association and Collective Bargaining

According to Vietnamese law, there is only one legal trade union, the Vietnam General Confederation of Labor (VGCL). VGCL is a major socio-political organization, representing working class, intellectuals and workers in Vietnam. All workers and employees who act voluntarily in an enterprise trade union and contribute regulated union fees can join the union. The union is formed based on the voluntary will of workers and is the only legal representative of the working class in Vietnam.



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

Because there is only one legally authorized trade union, every factory will be out of compliance with related questions on freedom of association. Given this, starting in May 2013, non-compliance regarding the rights of workers to form or join a union of their choice and the ability of unions to form or join a federation of their choice will be reported only at the national level rather than at the enterprise level. At the same time, BWV will be increasing its attention of questions related to Collective Bargaining, putting greater emphasis on understanding the negotiation, decision making, and communication processes behind collective bargaining agreements. As such, future reports will have more detailed information on collective bargaining indicators.

The Union Operations compliance point has accordingly been divided into 2 separate compliance points. A new Freedom to Associate compliance point includes the two questions relating to freedom to form and join unions and federations, as well as the question regarding whether workers are required to join a union (which is still assessed at the factory level). Better Work Vietnam continues to monitor other aspects of union operations at the enterprise level, including access to factories by union officials, and provision of facilities to unions under the Union Operations compliance point.

During this reporting period, two factories were found to require workers to join the union. In both of these factories, the workers were automatically enrolled into the union at the end of their probationary period.

In three factories, the employer did not provide the trade union with the necessary facilities and time to enable it to carry out its activities, which resulted in 2% noncompliance under the newly organized Union Operations compliance point.

There is a 61% non-compliance rate under Interference and Discrimination. In 81 factories, workers are not free to meet without management present. In 69 factories, the employer tried to interfere with, manipulate, or control the union. These findings are due to the fact that senior members of management are serving on the union executive committee in these factories. These findings stem from the historical issue that most union officials at the enterprise level in Vietnam are also part of the management of the enterprise. By default, this means that the union members are not able to meet without the influence of the management. In one factory, the employer terminated a union official without consulting the union board or the higher-level union.

Non-compliance in strikes is due to one factory where the employer punished workers for participating in a strike and did not reinstate all eligible workers after the strike.

The Collective Bargaining area sees a 41% non-compliance rate.

***In Focus 3: Collective Bargaining***

<b>Questions</b>	<b>Number of factories out of compliance</b>
<b>Does the employer consult with unions where legally required?</b>	30
<b>Does the employer refuse to bargain collectively or refuse to bargain in good faith with the union or provisional union?</b>	1
<b>Has the employer implemented all provisions of the collective agreement(s) in force?</b>	2
<b>Has the employer informed workers about the collective bargaining agreement?</b>	31
<b>If there is a collective agreement, are the provisions at least as favourable for workers as the law?</b>	2

The factories who are out of compliance with the issue of consulting with unions where legally required did not seek union input on issues such as employee dismissal, disciplinary actions, overtime planning, leave planning, or building wage scales. In addition, 34 factories did not take measures to ensure workers are adequately informed about the provisions of the the Collective Bargaining Agreement.

**2. Working Conditions**

**Compensation**

The highest area of non-compliance in this cluster is Paid Leave (92% non-compliance rate), explained in the In Focus table below.

*In Focus 4: Paid Leave*

<b>Question</b>	<b>Number of factories out of compliance</b>
<b>Does the employer pay workers for legally mandated paid public holidays?</b>	2
<b>Does the employer pay workers correctly for legally required annual leave?</b>	22
<b>Does the employer pay workers correctly for personal leave?</b>	2
<b>Does the employer pay workers correctly during sick leave?</b>	6
<b>Does the employer pay workers during work stoppages caused by the employer or by force majeure?</b>	9
<b>Does the employer pay full average monthly wages and maternity allowance of two month's minimum wage to entitled workers?</b>	6
<b>Does the employer correctly pay pregnant workers when they take time off for prenatal care?</b>	6
<b>Does the employer pay workers for one hour breastfeeding break per day?</b>	3
<b>Does the employer pay women workers for 30 minutes rest per day during their periods?</b>	32
<b>Does the employer correctly pay workers when they take other types of personal leave that are covered by social insurance?</b>	5
<b>Does the employer settle claims for sick leave and maternity leave within 3 working days?</b>	114

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

The Wage Information, Use and Deduction CP has a 41% non-compliance rate. As mentioned in previous reports, the non-compliance in this section is concentrated on the presence of multiple payroll records in 54 factories.

The average non-compliance rates for Minimum Wages and Overtime Wages are 19% and 30% respectively. Ten factories did not pay at least the applicable legal minimum wage for ordinary hours of work to regular full time workers, and 14 factories did not pay at least 5% higher than the wage level applicable for work under normal working conditions for workers who perform hazardous and dangerous or extremely hazardous and dangerous works. Concerning Overtime Wages, 25 factories did not pay correctly for all ordinary overtime hours, 20 factories did not pay correctly overtime

hours worked on weekly rest days, and 15 factories did not pay correctly overtime hours worked at night.

Social Security and Other Benefits has a non-compliance rate of 23%, as shown in the In Focus table below.

***In Focus 5: Social Security and Other Benefits***

<b><i>Question</i></b>	<b><i>Number of factories out of compliance</i></b>
<b>Does the employer collect contributions to social insurance funds from all workers?</b>	9
<b>Does the employer forward employee contributions for social insurance funds to the social insurance authority?</b>	27
<b>Does the employer pay the legally required employer contribution to social insurance funds?</b>	29
<b>Does the employer collect contributions to unemployment insurance funds from all workers?</b>	9
<b>Does the employer pay the legally required employer contribution to unemployment insurance funds?</b>	16

## **Contracts and Human Resources**

The highest non-compliance rates in this cluster are in Employment Contracts (58%) and Contracting Procedures (51%).

***In Focus 6: Contracting Procedures***

<b><i>Question</i></b>	<b><i>Number of factories out of compliance</i></b>
<b>Does the employer comply with limits on the period of employment for probationary workers?</b>	53
<b>Does the employer comply with national law concerning sub-contracted workers at the workplace?</b>	7
<b>Does the employer comply with requirements for temporary transfers of workers to new work?</b>	7
<b>Does the employer sign more than two consecutive fixed term contracts with workers?</b>	9

As noted in previous synthesis reports, many of the cases regarding failure to comply with limits on the period of employment for probationary workers refer to workers who are classified as helpers or cleaners being on a 30-day probationary period rather than the required maximum of 6 days. Some other factories apply a 60-day probationary period for regular workers rather than the required maximum of 30 days.

***In Focus 7: Employment Contracts***

<b><i>Question</i></b>	<b><i>Number of factories out of compliance</i></b>
<b>Do all persons who perform work for the factory, both on the premises and offsite, have a contract?</b>	25
<b>Do the contracts comply with the labour law, collective agreement and work rules?</b>	55

<b>Do the employment contracts specify the terms and conditions of employment?</b>	15
<b>Do the internal work rules comply with national law?</b>	11
<b>Do workers understand the terms and conditions of employment?</b>	8

Dialogue, Discipline and Disputes has a 25% non-compliance rate. This can largely be explained by the absence of a Labour Conciliation Council in 26 factories. In 10 factories, disciplinary measures did not comply with legal requirements, and in two factories workers were bullied, harassed or subject to humiliating treatment. In one of the cases, workers were shouted at by line leaders or production managers if they refused overtime. In the other case, workers were regularly scolded in public by a production manager.

There is a 20% non-compliance rate in the area of Termination. In 18 factories, the employer did not compensate workers for unused paid annual leave when they resigned or were terminated.

## Occupational Safety and Health

As in the last public report, assessments show that three areas report high non-compliance rates in the cluster of Occupational Safety and Health. They are further analysed in the In Focus tables below.

### *In Focus 8: Welfare Facilities*

<b>Question</b>	<b>Number of factories out of compliance</b>
<b>Does the employer provide workers enough free safe drinking water?</b>	5
<b>Does the employer keep food samples for 24 hours?</b>	20
<b>Does the workplace have adequate accessible toilets?</b>	10
<b>Does the workplace have adequate hand washing water taps?</b>	14
<b>Does the workplace have other legally-required facilities?</b>	122
<b>Is the workplace clean and tidy?</b>	32

The non-compliance findings are concentrated on other legally required facilities, including providing changing rooms for female workers, showers, lockers for employees' personal belongings, and other similar types of facilities. Many factories have none of these additional legally required facilities, while others have some but not all or not sufficient numbers. In both cases they will be found non-compliant which accounts for the high level of non-compliance.

### *In Focus 9: Health Services and First Aid*

<b>Question</b>	<b>Number of factories out of compliance</b>
<b>Do workers who are exposed to work-related hazards receive free pre-assignment and periodical health checks every 6 months?</b>	99
<b>Does the employer adequately protect pregnant or nursing workers against safety and health risks?</b>	20
<b>Does the employer comply with the law on HIV/AIDS Prevention and Control or collective bargaining agreements on HIV/AIDS?</b>	58
<b>Does the workplace have sufficient onsite medical facilities and staff?</b>	23
<b>Do workers who are not exposed to work-related hazards receive pre-assignment and annual medical checks?</b>	95

<b>Has the employer ensured that there are a sufficient number of readily accessible first aid boxes/supplies in the workplace?</b>	17
<b>Has the employer provided first-aid training for workers?</b>	53

As mentioned in previous reports, in many cases, the non-compliance stems from conflicting legal understandings. The high levels of non-compliance on regular health checks are largely a result of the fact that factories do not provide annual health checks or that the health checks don't include all required tests or are not completed using the correct forms. In addition, some factories have official government letters that state they do not need to include certain tests, leading to a lack of clarity by factories on the legal requirements.

*In Focus 10: Chemicals and Hazardous Substances*

<i>Question</i>	<i>Number of factories out of compliance</i>
<b>Are chemicals and hazardous substances properly labeled?</b>	92
<b>Are chemicals and hazardous substances properly stored?</b>	66
<b>Does the employer keep an inventory of chemicals and hazardous substances used in the workplace?</b>	32
<b>Does the employer keep chemical safety records for the hazardous chemicals used in the workplace?</b>	62
<b>Does the employer provide adequate washing facilities and cleansing materials in the event of exposure to hazardous chemicals?</b>	49
<b>Has the employer effectively trained workers who work with chemicals and hazardous substances?</b>	30
<b>Has the employer taken action to assess, monitor, prevent and/or limit workers' exposure to chemicals and hazardous substances?</b>	56

There continues to be widespread non-compliance (88%) on issues related to Chemicals and Hazardous Substances. The highest area of non-compliance is related to chemicals and hazardous substances not being properly labeled and stored.

*In Focus 11: Worker Protection*

<i>Question</i>	<i>Number of factories out of compliance</i>
<b>Does the employer provide workers with all necessary personal protective clothing and equipment?</b>	41
<b>Are workers effectively trained and encouraged to use the personal protective equipment that is provided?</b>	19
<b>Do workers use the personal protective equipment that is provided?</b>	54
<b>Are materials, tools, switches, and controls within easy reach of workers?</b>	0
<b>Do workers have suitable chairs?</b>	8
<b>Are standing workers properly accommodated?</b>	36
<b>Are there sufficient measures in place to avoid heavy lifting by workers?</b>	18
<b>Are workers effectively trained to use machines and equipment safely?</b>	12
<b>Are proper guards installed and maintained on all dangerous moving parts of machines and equipment?</b>	39
<b>Do workers use the machines and equipment in a safe manner?</b>	28
<b>Does the employer comply with legal requirements related to machines and equipment subject to strict occupational safety requirements?</b>	10
<b>Are electrical wires, switches or plugs properly installed, grounded, and</b>	27

maintained?	
Are there appropriate safety warnings posted in the workplace?	13

*In Focus 123: OSH Management Systems*

<i>Question</i>	<i>Number of factories out of compliance</i>
Does the employer inspect and measure the environmental conditions in the workplace on an annual basis?	12
Does the employer keep updated records of work-related accidents and diseases?	16
Does the factory have an approved OSH feasibility study?	70
Has the employer performed an assessment of general occupational safety and health issues in the factory?	18
Has the employer set up a properly functioning Unit in charge of OSH and/or Labour Protection Council and OSH collaborators network?	76

*In Focus 132: Emergency Preparedness*

<i>Question</i>	<i>Number of factories out of compliance</i>
Are any of the emergency exits inaccessible, obstructed, or locked during working hours, including overtime?	47
Are emergency exits and escape routes clearly marked and posted in the workplace?	37
Are there at least 2 possible exits for all workers, where required?	7
Does the employer conduct at least one emergency drill per year?	11
Does the workplace have a fire detection and alarm system?	10
Does the workplace have adequate fire-fighting equipment?	20
Has the employer developed and trained workers on an emergency evacuation plan?	10
Has the employer trained an appropriate number of workers to use the fire-fighting equipment?	3

*In Focus 14: Working Environment*

<i>Question</i>	<i>Number of factories out of compliance</i>
Is the noise level in the workplace acceptable?	5
Is the temperature in the workplace acceptable?	18
Is the workplace adequately lit?	6
Is the workplace adequately ventilated?	7

## Working Time

There is a 93% non-compliance rate in Overtime. All of these factories exceeded the national legal limit of 300 overtime hours per year. In some cases, factories also exceeded daily overtime limits. In addition, 79 factories did not ensure that workers have on average at least 4 rest days per month.

*In Focus 15: Overtime*

<b>Question</b>	<b>Number of factories out of compliance</b>
<b>Does the employer work overtime only for reasons allowed by law?</b>	0
<b>Does the employer comply with limits on overtime hours worked?</b>	120
<b>Does the employer comply with notice requirements regarding overtime?</b>	1
<b>Does the employer ensure that workers have on average at least 4 rest days per month when weekly rest is not possible?</b>	79
<b>Is overtime work voluntary?</b>	14

Under Regular Hours, which has a 48% non-compliance rate, the main finding relates to 56 factories where working time records did not reflect the hours actually worked.

Concerning Leave (32% non-compliance rate), the non-compliance is mainly due to 36 factories where the employer did not allow workers to take 30 minutes rest during their period.

## Section III: Changes in Compliance

### Methodology

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This section of the synthesis report concerns only the **87 factories** that have been assessed more than once by Better Work Vietnam.

Chart 2 shows the changes in non-compliance that have occurred in these 87 factories between the most recent Better Work Vietnam assessment and the previous one. 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.

It is important to note that the data may not fully capture all improvements made at a factory as the question would still be non-compliant even if many positive changes had been made. For instance, in the area of overtime, factories may have made improvements in adhering to daily or weekly overtime limits but may still be out of compliance on overtime questions if they do not adhere to annual overtime limits. Similarly, if many (but not all) factory workers had started to wear personal protective equipment, or many (but not all) chemicals were now labeled, these questions would still be reported as non-compliant.

Each cluster is explored in detail below:

#### Child Labour

The small decline in the area of child labor is due to the fact that the program found a worker just prior to her 15<sup>th</sup> birthday in one of the factories. In the area of hazardous work, the improvement was in the area of whether young workers (age 15-18) work more than 7 hours a day or 42 hours a week (from 11 to 9 factories). These trends are largely consistent with the changes in compliance seen in past reporting periods.

#### Discrimination

There was a 2% improvement in the area of gender discrimination, which relates primarily to factories changing their recruitment policies and postings so as to not limit applicants to female candidates only. As can be seen in the section on discrimination above, Better Work Vietnam finds during first assessments that many factories only allow females to apply for certain positions. Program advisors work with factories to alter their recruitment materials during advisory work. This is also largely consistent with changes in this area in past reports.

#### Forced Labour

The small decline that is shown in the area of forced labor is due to the fact that one factory was found to be holding the IDs of temporary workers.

#### Freedom of Association and Collective Bargaining

The changes that appear in the section on Freedom of Association and Collective Bargaining are due almost exclusively to changes in definitions, guidance and protocol of the Better Work Vietnam program itself. BWV staff have gone through an extensive one-year training curriculum on these



issues, leading to a greater understanding on their part on how to handle nuances associated with industrial relations. In the collective bargaining area in particular, staff began to focus more attention on whether collective bargaining issues were being *effectively* communicated to workers leading to more findings of non-compliance. In the area of discrimination, what appear to be changes in practice (eg greater interference) are actually attributable to a more clear definition around interference when senior management are members of the union executive committee in a factory.

Over the coming period, the program will be making yet again more changes in this area, aiming to stay consistent with opportunities presented by the new Trade Union Law and Labor Code and the additional training and expertise that the staff have continued to receive. As such, it is next to impossible to draw an conclusions about real changes in factory performance on this issue based on the quantitative data alone.

One noticeable improvement which cannot be seen on the chart is a 7% improvement in the area of whether factories require workers to join a union. In the most recent visits of factories who have been in the program for at least two cycles, there are no findings in that area. This finding is not observable in the chart because the other two questions (freedom to form and join a union or a confederation) are 100% NC because of national law.

The latest round of assessments in factories visited more than once by Better Work Vietnam shows no findings in the area of Strikes.

### **Compensation**

In the area of wages, the decline is due primarily to the program finding greater numbers of temporary workers in factories, which may in large part by due to the current labor shortage in Vietnam. In some cases, the temporary workers are not being paid a full minimum wage and/or are not being paid properly for overtime, especially overtime on holidays or Sundays.

The improvement in paid leave is a result of the fact that greater numers of factories are paying female workers for 30 minutes rest per day during their periods. The improvement shows a change from 45% non-compliance to 14% in the most recent assessment.

As in the past report, the decline in the area of social insurance is mainly due to an increase in factories who do not pay the legally required employer contribution to social insurance funds. The number of factories that failed to forward employee contributions for social insurance funds to the social insurance authority rose from 5 to 17; the number of factories who failed to pay the legally required employer contribution to social insurance funds rose from 11 to 18; and the number of factories that failed to pay the legally required unemployment funds rose from 6 to 9. This can largely be explained by factories trying to delay payments to the authorities.

### **Contracts and HR**

In the area of termination, the decline in performance is due to more factories failing to compensate workers for unused paid annual leave when they resign or are terminated (an increase from 3 factories to 9 factories over the reporting period). This change is most likely due to an improvement in Better Work Vietnam staff capacity to identify this issue.

Improvements in the area of contracting procedures is mainly due to factories complying with limits on the period of employment for probationary workers (improvement from 43 factories out of compliance to 22 in the latest assessments). In the area of dialogue, discipline and disputes, improvements are mainly due to an increase in the number of factories that have a Labour Conciliation Council in the factory, with a decrease in non-compliance from 20% to 11%.

The program helped to bring about improvements on the issue of whether all people who work for a factory, both on the premises and offsite, have a contract, with the number of non-compliant factories dropping from 16 to 9. However, not all of these contracts comply with all elements of the the labour law, collective agreement and work rules.

## **OSH**

In the area of OSH, the most recent assessments by BWV show a decline in performance in many areas. This can be explained primarily by the fact that BWV staff have become more strict over time in their assessment methodology. Specific areas where non-compliance appears to have increased include:

- **Emergency Preparedness:** The number of factories that had emergency exits that were inaccessible, , obstructed, or locked during working hours, including overtime, increased from 26 to 35 factories
- **OSH Management Systems:** The change in this area is primarily due to the fact that BWV staff have become more strict in findings around whether a factory has an OSH feasibility study, a Labor Protection Council, and a Network of OSH collaborators, all of which are required under the law. Over the past year, staff have begun to find greater factories out of compliance in these areas, as they are checking not only for the existence of these bodies and processes on paper, but evidence that they are running effectively and in accordance with the law.
- **Worker Protection:** The number of factories failing to give workers proper personal protective equipment (PPE) rose from 17 to 23 and the number of factories where workers failed to properly use PPE increased from 22 to 42.

In the area of chemicals and hazardous substances, there were improvements in a range of areas. The number of factories who were non-compliant in assessing, monitoring, preventing and/or limiting workers' exposure to chemicals and hazardous substances dropped from 58 to 30; the number of factories who failed to keep chemical safety records for the hazardous chemicals used in the workplace fell from 45 to 34; those who failed to have an inventory of chemicals and hazardous substances in the workplace dropped from 31 to 14; and the number of factories who did not provide adequate washing facilities and cleansing materials in the event of exposure to hazardous chemicals fell from 40 to 28. The number of factories who were non-compliant in training workers on how to use chemicals also dropped from 33 to 15.

However, there was an increase in the number of factories who did not properly label chemicals (53 factories in the previous cycle and 61 factories in the subsequent one)

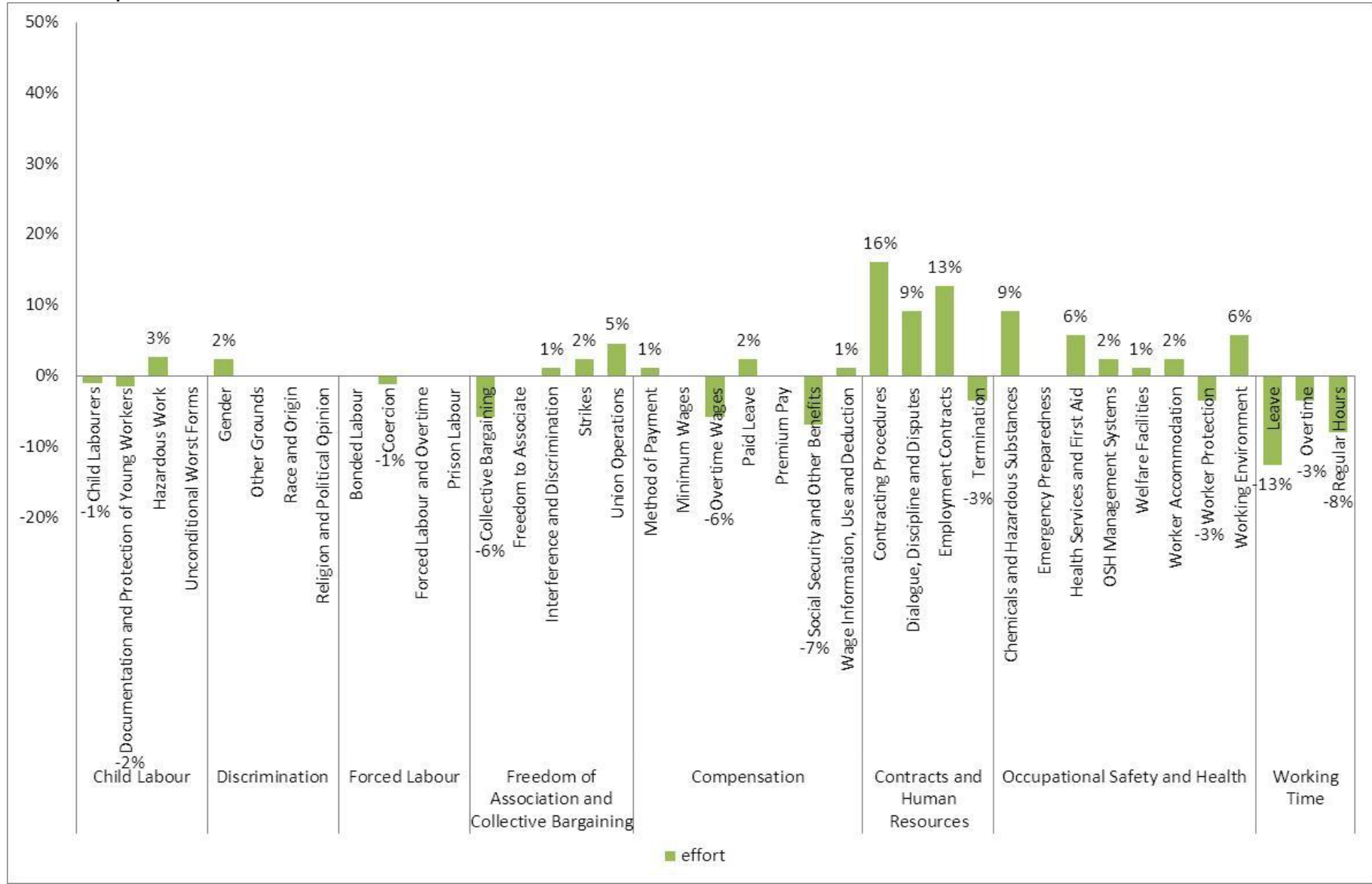
There were also improvements in employers providing first aid training for workers (from 47 non-compliant factories in their previous cycle to 27 in their most recent one) and an improvement in noise levels and ventilation.

## **Working time**

In the area of regular hours, Chart 2 shows an 8 percent decline in performance. This is due almost entirely to Better Work Vietnam staff identifying multiple payroll records in a greater percentage of assessed factories. The greatest reason for this change is an improvement in staff ability to identify the multiple payroll records.

In the area of leave, there appears to be a worsening of 13%. However, this change is due to the fact that Better Work now captures employers' failure to allow workers to take a 30 minute rest during their menstruation in this area.

Chart 2: Compliance effort



## Section IV: Conclusions

### Conclusions and Next Steps

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This sixth Better Work Vietnam public synthesis report is important in highlighting both the current state of working conditions in the factories enrolled in the program as well as internal improvements that the program has made itself. In the context of the changing legal framework in Vietnam, it is essential to differentiate between these two factors so as to be able to identify the most appropriate methods for continuing to make change.

Key conclusions include the following:

- The baseline trends among factories assessed by the program remain largely consistent with findings reported in earlier synthesis reports. There continue to be high levels of non-compliance in the area of occupational health and safety, overtime hours, paid leave, and contracting procedures and proper payment for temporary workers. As such, the findings in this report strengthen a general understanding of the most prevalent issues across the industry.
- Persistent labor shortages in the country may be an important ongoing reason for higher levels of temporary workers and less stringent recruitment practices relating to hiring of young workers as both of these issues were even more evident in the last reporting period.
- There are a number of areas where BWV staff have received ongoing and intensive training and more practical experience, leading to more findings in subsequent years of assessments. In particular, this relates to greater numbers of findings around multiple payroll records, some areas of occupational health and safety, and freedom of association and collective bargaining. In the area of collective bargaining in particular, the program will be adding additional questions and more detailed guidance to its assessments, which should lead to even more data for analysis in subsequent reports.
- Many of the factories that have joined the program in the past year are those who may not have actively engaged in social compliance monitoring in the past, may be smaller factories, or may be factories that do not have as proactive an attitude as others who joined in the initial stages of the program. As such, while the percentage of non-compliance may appear to be worsening in some areas, this is in part an indicator of the program taking on a more diverse set of factories rather than simply showing that performance is getting worse across the industry.

In the course of working to help oversee effective implementation of the new Labor Code which comes into force on May 1, 2013, BWV will be coordinating actively with the Ministry of Labor, Invalids and Social Affairs (MoLISA), the Vietnam General Confederation of Labor (VGCL) and the Vietnam Chamber of Commerce and Industry (VCCI) to further identify strategies for ensuring adherence to the laws and helping show the link between improvements in working conditions and business competitiveness so as to help drive a commitment to ongoing progress.

## Annex A: Factories covered in this report

1. 3Q Vina Co. Ltd.	35. Viet Hung	73. Nahal	109. Pungkook
2. Shinsung Vina	36. CCH Top	74. Precious Garment	One Member Co. Ltd.
3. NB Blue	37. Alta Mode Vietnam	75. M.D.K	110. Yung Yang Embroideries Co. Ltd.
4. Hansae TN	38. Eclat Textile	76. Nam Ho	111. Cartina Enterprises Vietnam Ltd.
5. Tri Dat Garment Co. Ltd.	39. KL Texwell Vina	77. Simone Accessories Collection	112. CMC Vina
6. L&S Vina	40. Colltex Garment	78. Yasuda Vietnam	113. Son Kha Screen Printing Co. Ltd.
7. Lotus Textile & Garment	41. Quang Xuan Trading	79. Beautec Vina	114. TTG Co. Ltd.
8. SS Vina	42. Truong Vinh	80. Viet My	115. Ando 2
9. King Star Garment	43. Viet Tien	81. M&J Garment	116. WIN VINA
10. Hansoll Vina	44. Huu Nghi	82. Thuan Phuong Embroideries	117. Truong Capital
11. Ocean Sky Apparel	45. Viet Thinh Garment	83. Kanaan Saigon	118. Puku Vietnam
12. Chutex International	46. Thao Uyen	84. Orange Fashion	119. Vina Gio
13. Nobland Vietnam 2	47. Epic Designers	85. Triple	120. Mango Fashion
14. Nobland Vietnam	48. Chin Phong	86. Texma	121. LAN HANH Manufacturing – Trading Service CO.LTD.
15. Sarah	49. Hong Jae Industrial	87. ASG Vina	122. Premier Fashion Garment Joint Stock Company
16. Poong In Vina	50. Hansoll- Dae Kwangl	88. Lam Thanh	123. Chuan Mei Glove Col.Ltd.
17. Domex Vietnam	51. SH Corporation	89. Li Yuen	124. Thien Chi Co. Ltd
18. Jiangsu Jing Meng Vietnam	52. Yupoong Vietnam	90. Chi Dat	125. HANHDAN Screen Printing CO.LTD.
19. Sundia Binh Duong	53. Delta Starmark Garment	91. Tien Tien	126. ELAND VIET NAM CO., LTD – LONG AN BRAND
20. T&T Co. Ltd.	54. Tai Viet	92. Poong In Vina 4	127. SAIGON PRIVATE GARMENT EXPORT
21. Dae Kwang - Maika Co. Ltd	55. Dong- A Vina	93. Continent Packaging	128. HUY HOA
22. O-Sung Vina Co. Ltd	56. Branch of Poong In	94. Cerie Binh Duong	129. ON ACCESSORIES
23. Shillabags International Co.	57. Asia Garment Manufacturer	95. Great Super Enterprise	130. T AND AN
24. King Hung Garments Industrial Co.	58. Eland Vietnam	96. Simone Tien Giang	131. HONG DUONG
25. Jung Kwang Vietnam	59. Washi Washi	97. MB VIETNAM	132. HANSAE TIEN GIANG
26. Vigawell Co. Ltd	60. Hansoll Vietnam- Bau Xeo	98. J&D Vinako	
27. SB Saigon Fashion	61. I.S Vietnam	99. Top One Garments	
28. Tae Young Vina	62. S.J Vina	100. Bando Vina	
29. Eins Vina	63. K.J Vina	101. Saigon 2- Trung Lap Phu	
30. Unipax	64. Nam Phuong Co.	102. Kingswell Co.Ltd.	
31. FTN Vietnam	65. Teratex	103. Saigon Knitwear Limited	
32. All Super Enterprise	66. Nalt Enterprise (DNTN MAY QUOC TE)	104. Tan Uy Dat	
33. Green Vina	67. Langham	105. ANDO	
34. Avery Dennison RIS	68. Pungkook 2- Song Than	106. Maxim Vietnam Company.LTD.	
	69. Pungkook 1- District 7	107. SB Pearl Fashion	
	70. Park Corporation	108. Fashion Garment 2- Tan Phu Brand	
	71. Sun Garment		
	72. Nurian		

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

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Abercrombie & Fitch	Patagonia
adidas Sourcing Limited	Pentland Brands
American Eagle Oufitters, Inc.	Phillips - Van Heusen Corporation
Ann Inc.	Polo Ralph Lauren
Burberry Asia Ltd.	Primark Stores Ltd
Coach	Puls Trading Far East Ltd.
F&T Apparel LLC	Puma AG/World Cat
Fifth and Pacific Companies Inc.	Recreational Equipment Inc (REI)
Gap, Inc.	Sanyo Shokai Ltd.
H & M Hennes & Mauritz	Sears Holdings Management Corporation
Kohl's Department Sotres, Inc.	Talbots
LL Bean Inc	Target
New Balance Athletic Shoe Inc.	The Jones Group
Nike Inc., Vietnam	The Walt Disney Company
Nordstrom	Wal-mart Stores Inc.